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The Commonwealth of Massachusetts;

FOURTH ANNUAL REPORT

to the

JUSTICES OF THE
SUPREME JUDICIAL COURT;

Executive Secretary,

by the

EXECUTIVE SECRETARY

as of

June 30, 1960



THE OLD STATE HOUSE
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The cut on the front cover represents the Old State House as it appeared about 1800. The Supreme Judicial Court in the early years held the sittings in this building.

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INTRODUCTION

To the Supreme Judicial Court:

1. I submit herewith report as required by General Laws, chapter 211, section 3-E. It covers the period from July 1, 1959, to June 30, 1960; there are further comments on developments, particularly in the legislature, up to the time of the completion of this report, ready for printing.

2. In general the operation of the court system has been good. But as will appear there are some troublesome features. Particular attention is called to the situation now existing in the superior court, paragraphs 5 to 8.

3. As in previous years we have had excellent cooperation from all the courts and their attaches, as well as from the various state, county and municipal offices.

4. All statements, opinions and recommendations are made entirely on my own responsibility, unless otherwise specifically stated.

CONGESTION IN THE SUPERIOR COURT

5. Clogging of trial lists and consequent delay in reaching cases for trial is becoming a problem again in the superior court. In one respect it is worse than anything experienced in this generation, referring to delay on the criminal side. In my report of last year, paragraph 6, I remarked that "retrogression is just as easy as progress." This has been promptly borne out.

6. Here is how the trouble has come to pass. For some thirty-five years the superior court has had the use of a varying number of district court judges to hear misdemeanors, and, more recently, to hear motor torts. But no money was appropriated for this purpose for the fiscal year July 1, 1959, to June 30, 1960. Nor has any been provided thus far for the current fiscal year. Thus the court has lost these sessions; since July, 1959, it has been severely crippled. In the period July, 1958, through June, 1959, the average of these sessions was six to eight. Adding to the loss was the vacancy caused by the death, on September 17, 1959, of Judge Charles A. Rome, not yet filled. Had the incidence of sickness not been less than usual the picture would be still gloomier. The net effect has been, since July 1, 1959, a reduction of about 20% in the judges available to preside in the superior court. The number of civil sessions has had to be reduced, misdemeanor sessions have been omitted or combined with felony sessions. By these

methods it has still been possible to dispose of felony cases promptly, but our record of prompt criminal justice has been interrupted as to misdemeanors. While the delay has varied in the several districts, all have suffered. It is to be hoped that this situation will be only temporary. Whatever may be said of delay on the civil side, where money alone is involved, chronic delay on the criminal side would be intolerable.

7. On the civil side, the following schedule will show the time-lag in the counties. The schedule represents cases reached in normal order, that is, neither advanced nor continued. In the majority of the counties the time-lag has increased a little. The word "little" affords no comfort. The schedule shows that within twelve months the reduction in available manpower was already making itself felt; it is a cumulative process, increasing in rapidity as time goes on unless stopped. In one county, Berkshire, the lag has enormously increased. In this county the evil has been compounded by the presence on the docket of a number of eminent domain cases, entitled to preference over others. This preference is coming close to denial of justice to other litigants. In paragraphs 41 to 47 I comment adversely on the conception of the mandatory advancement of cases.

Counties in Which Sittings Are Continuous

	July 1, 1960	
BRISTOL		
Taunton	11 months	
Fall River	10	"
New Bedford	14	"
ESSEX		
Salem	12½	"
Lawrence	17	"
Newburyport	9	"
HAMPDEN	12	"
MIDDLESEX		
Cambridge	15	"
Lowell	12	"
NORFOLK	13	"
SUFFOLK	12	"
WORCESTER		
Fitchburg	11	"
Worcester	13	"

County With Nearly Continuous Sittings

PLYMOUTH

Brockton	13 months
Plymouth	13 "

*Counties in Which Sittings Are Not Continuous
(Approximate Age of Most Recent Cases Reached
in Normal Course When Sittings Are Held)*

BARNSTABLE	10 months
BERKSHIRE	28 "
DUKES COUNTY	7 "
FRANKLIN	12 "
HAMPSHIRE	10 "
NANTUCKET	7 "

8. While the legislature had before it a bill to add six judges to the superior court, it was defeated. This leaves the superior court situation just the same as of the time I write this report. However, it is sincerely to be hoped that when the next general court convenes an appropriation will be recommended by whoever is the next governor, and enacted, for resumption of use of district court judges on the same scale as just prior to July 1, 1959. This involved use of six to eight in the various counties during the court season, September, 1958, through June, 1959.

9. With reference to the whole subject of judicial manpower for the court, careful attention should be given to the statistics in Appendix V. Law entries have increased over last year and are close to the peak year of 1958. Criminal prosecutions show an increase of some 7%, in appeals from lower courts and indictments. There is no indication of any reduction of the pressure on the court.

10. In reporting on the "remanded" cases, a more cheerful note can be sounded. The statistics are found under the district courts, see insert, Appendix V, columns 23 to 27. The "remanded" case contributes a great deal to the relief of the pressure on the superior court; 3,646 cases were transferred for trial; during the 12 months involved 475 losers asked for retransfer. These, of course, include some cases transferred in the previous year, but tried in the period covered by this report. It can now be taken as a probability that of all cases transferred between 85 and 90 percent will never come back

to the superior court; of the 10 to 15 percent which do return, it is highly doubtful that even half will actually be tried. Experience is as yet not enough to make categorical statements, but from observations of the clerks on the few cases which have begun to appear on trail lists, juries are generally but not universally following the decision of the lower court. The chances of a loser bettering himself exist but the odds are against him.

11. As a result of the current lack of manpower the court has continued to use auditors, although on a somewhat smaller scale. This use of references has contributed to keeping the time-lag, shown above, paragraph 7, from increasing even more. Their largest use is in Middlesex and Suffolk counties.

COST OF OPERATING THE COURTS

12. Details of the cost of operating the various courts will be found in Appendix I. Compared with the last reporting period this shows an increase of \$414,637.52 (net). We have used the same formulas as in previous years. Repeating remarks in earlier reports the figures do not include certain items. For the counties outside Suffolk we do not have the cost of pensions, either contributory or non-contributory. As a rule of thumb, one can add about four and one-half to five percent of the total cost for this particular item. Nor do the figures cover the cost to the public of the recent health and insurance plans for public employees. Members of the judiciary and court attaches are permitted to join these plans where they have been adopted; the largest one, of course, is the plan covering those persons paid by the commonwealth. Nor do we make any allowance for depreciation and obsolescence. As I have often stated, both in written reports and in remarks made at meetings or hearings, this is a very real item. For example, a survey of the new part of the Pemberton Square courthouse, built about 23 years ago, indicates an expense of some \$900,000 to try to make it watertight and to repair other ravages of time. So far as I know, there is no public accounting system which directly uses depreciation as an expense. Some municipal reserve and stabilization funds under General Laws, chapter 40, sections 5A and 5B, are no doubt based in part on the realization that deterioration is an inevitable feature of all structures. As to obsolescence, too many of our courthouses were obsolete the day they were opened. The builders of courthouses in the 19th century provided for much exasperation and discomfort for future generations.

13. A future item of expense to be anticipated is air-conditioning. The probate courtrooms in Springfield already had it and it has now been installed in the Worcester courthouse. Demand for this improvement is bound to increase. People will not submit to discomfort if the means are at hand to remedy it—a perfectly natural and sensible attitude.

14. The idea of having the state pay all court costs steadily gains support, but the time has not quite come when such a radical change in the fiscal systems of the commonwealth and the counties can be passed.

PHYSICAL FACILITIES OF THE COURTS

15. During the past year there have been a number of improvements in courthouses and office equipment. There is still no comprehensive plan, and all the improvements are the result of purely local initiative. Whenever it has been necessary to obtain a special act to carry out a project this office has supported the legislation at the State House. Our average in the quality of court premises is nothing to be proud of; out of ninety different buildings or parts of buildings, either publicly owned or rented from private landlords, there are twenty-two which for one reason or another must be classed as inadequate—and this number is reached only by the exercise of charity. In the following paragraphs I mention some of the current improvements.

16. The renovation of the Taunton district courthouse has been finished. It is practically a rebuilding of the old structure. During the work the court has been satisfactorily housed in the superior court building.

17. In the office of the clerk of courts at Taunton new files have been installed; the ancient rolltop desks have been replaced with modern ones. So the atmosphere of quaint antiquity is gone.

18. As reported last year the Norfolk county commissioners have bought a lot for a new courthouse in Stoughton. As I write this they have a bill before the legislature to borrow the money to build it.

19. Construction of a new wing to the probate-registry of deeds building at Dedham is in progress. This wing will have a courtroom, offices for the probate judges and a library. The probate court will thus no longer need the use of the courtroom across the street on the first floor of the superior court building.

20. An addition to the Quincy district courthouse is nearing completion. This will afford more space for this very busy court.

21. In the superior court building at Salem additional storage space for the clerk of courts has been provided in the basement. This has enabled the clerk to rearrange his office, as well as to get more modern filing equipment. All this relieves the badly crowded condition in this office to some extent, but does not permanently solve the space problem there.

22. The much needed new boiler has been put in the superior-probate building at Lawrence; the custodian reports most satisfactory results.

23. At Haverhill, a rented facility, new offices have been provided for the clerk and judge.

24. The interior of the Abington court has been entirely re-decorated and fluorescent lights installed. The grotesquely dismal appearance has been remedied, but these quarters are still crowded and hopelessly inadequate.

25. In Athol the courthouse has been entirely rearranged by the landlord, as part of the terms for renewing the lease. It is now a real courtroom instead of an abandoned theatre used as a makeshift for court sessions.

26. I have already mentioned the air-conditioning of the Worcester court. With this improvement one can say without exaggeration that there is no finer courthouse in the country.

27. At long last there is to be a new courtroom in Leominster. The city is now putting up a building to combine the police station, also much needed, and the courthouse. Thus the use of the gloomy, inadequate present quarters nears an end. It is also to be hoped that along with new premises the court will get new equipment.

28. An elevator has been put in the district court at Framingham, another very fine facility.

29. A number of additional files and cabinets have been provided for the office of clerk of courts at Springfield. I mention this because this office has for several years suffered from lack of sufficient filing space; this condition has gradually been bettered and with the acquisitions this year the situation should finally be relieved.

30. I have in earlier reports so severely criticized the court premises at North Adams that it is a pleasure to report the installation of a new lighting system for the courtroom and the clerk's office; also the purchase of new counters and shelves.

While these improve the appearance, the quarters remain otherwise the same.

31. Besides the improvements listed above there has been agitation in other places which gives promise of desirable improvements in the near future. There is certainly an increasing realization that inferior, squalid, inadequate court facilities not only interfere with the efficient administration of justice but are reproaches to the community itself.

32. The difficult situation at East Cambridge remains unchanged. Because of the reduction in the number of superior court sessions, discussed in paragraphs 5 to 8, no crisis materialized at East Cambridge this year. Sooner or later a decision will have to be made, no matter how painful. It is reported that the registry of deeds now feels the need for more space. The choice is between extensive improvements and additions to the whole court, county office and registry establishment at East Cambridge and moving the county activities from there to some site in the central part of the county—Lexington has been suggested.

JUDICIAL PENSIONS

33. At the time this report is being completed the legislature is still in session. Pending before it are bills dealing with pensions of judges. I make particular mention of Senate 341. This has its origin in House 2568 of last year, designed to fit judges into the contributory pension plans. (See last year's report, paragraph 37.) As a result of discussions with members of the committee on pensions and old age assistance this office drew a bill to work the conceptions of House 2568 into the contributory retirement law; this draft was also checked by the secretary of the contributory retirement board. It was thereafter filed as Senate 341. As might be expected it is a lengthy and technical bill. We believe that it correctly fits the judiciary into the contributory retirement statutes and avoids any conflict with the constitutional tenure of judges. If passed the gist of it would be that judges holding office on its effective date could but would not be compelled to join the contributory system, and later appointees to judicial offices would have to join. Each present incumbent would have to decide for himself whether to join or not; the problem would differ in each individual case.

34. Whether this bill will be passed or not cannot be predicted as I finish the writing of this report. Any proposal concerning judicial pensions is a touchy, controversial subject and there is both considerable support for Senate 341 and opposition to it.

USE OF RETIRED JUDGES

35. In the last report it was recommended, paragraphs 42 to 45, that retired judges be subject to recall for temporary service. Comprehensive bills, applicable to all courts, were prepared. They were not passed. Admittedly, except for a time when such use was permitted in the superior court, this is a novel idea in Massachusetts. I feel that it is sound. It appears to work well in the Federal Courts. Bills should be introduced, if not as comprehensive as those suggested last year, at least covering part of the subject matter. To be more specific, the value of such additional manpower is obvious in the supreme judicial and the superior courts. For example, as this report is written, there has been a vacancy in each of these courts for some months. Delays in appointments must from time to time be expected. It would be a great advantage if during such vacancies it could be possible to call on a retired judge of either of these courts to substitute. Therefore, bills either following the form of those drawn last year or providing for alternatives to them will be filed.

CIVIL PRACTICE AND PROCEDURE

THE "REMANDING" LAW

36. The practical working of this new law, now General Laws, chapter 231, section 102C, is discussed in paragraphs 108 and 109. In my last report I recommended certain technical improvements to clear up doubts on procedural matters. Three changes were suggested, viz., 1st, that it be definitely stated that a remanded case while in the district court is a district court case for all procedural purposes; 2d, to make definite the disposition of the case when neither party appears for trial, and 3d, to give a loser an option to ask for report to the appellate division instead of re-transfer to the superior court.

37. A bill was filed to incorporate those recommendations. It was approved by the Judiciary Committee, but thereafter some doubt and opposition arose as to the third heading. Believing it to be desirable that this bill be kept as non-controversial as possible, I did not press this feature, but preferred to have it reserved for further study. As a result, Acts of 1960, chapter 303, was passed; it covers the first two subjects and should put at rest troublesome doubts about them.

38. There remains the complaint that because the finding of the lower court is made *prima facie* evidence, this finding if erroneous as matter of law, prevents the loser from getting a directed

verdict in his favor on a retrial in the superior court. This situation can seldom occur in a motor vehicle tort case. It can happen in general liability cases, and is still more possible in contract cases. It cannot happen where the claim or defense depends on the version of the plaintiff or defendant, and he can be summoned and committed to this version, thus presenting the question whether on his own story he has any claim or defense. Other cases may present the possibility of disposition under General Laws, chapter 231, section 59, by affidavit of no genuine issue of fact. But there still may be cases where a party losing in the district court on an erroneous ruling of law is blocked from obtaining a directed verdict because of the *prima facie* value of the finding.

39. I renew the recommendation of giving the loser the option to ask for report to the appellate division. See Appendix II for draft of amendment. However, as this even after further discussion may still be controversial, I make the following further suggestion. This is to introduce substantially the rule for motions for summary judgment as in the Federal court rules, also adopted in Maine. It is, of course, based on the same idea as our statute referred to above, but wider in scope and more effective in operation. I would give the right to use it to both winner and loser in retransferred cases. I have drawn a proposed statute, see Appendix III.

40. In the following paragraphs 41 to 47 I discuss with hostility two time-honored procedural institutions, the preferred case and concurrent jurisdiction.

PREFERRED CASES

41. It has been the custom for the legislature to pass bills to require the courts to advance certain types of cases over others. My attention was specifically called to it by a bill, House 211, on which my comments were requested by the governor's office. This bill gives the plaintiff in a malpractice case against a doctor or a hospital the right to move to advance it on trial lists. It appeared that the defendant for years had had this privilege but, incredibly, the plaintiff had not. General Laws, chapter 231, section 59C, now amended by Acts of 1960, chapter 69, extends the right to the plaintiff.

42. The constitutionality of any bill designed to regulate how cases are to be put on trial lists is, to say the least, dubious, as a violation of the constitutional provision for the separation of powers between the branches of government.

43. An examination was made to see just how many of these statutes are on the books. No less than thirty of them were found dealing with specific types of cases and an additional general one authorizing the courts to advance cases; this is merely declaratory of their inherent power in any event.

44. The thirty specific cases range from mere legislative recommendation to advance the cases to unequivocal demands that the cases be tried ahead of all others, with various degrees of intermediate stringency. They were enacted without any coordination or reference to each other, and, as a matter of course, contradict each other. For example, a petition under General Laws, chapter 55, section 28(c), to void an election for corrupt practices must be advanced "over any case of a different nature," but a petition to review an order of the fair employment practice commission must take precedence over "all other matters" before the court, General Laws, chapter 151B, section 6; but so too must applications for preliminary injunctions in labor cases, General Laws, chapter 214, section 9. What would happen in a superior court some morning if one of each of these cases should appear on a trial list and all counsel should demand their rights to an immediate trial ahead of everybody else?

45. It does not seem to be realized in passing this heterogeneous, contradictory legislation that by the extent one case is preferred all others must be delayed, and that the greater the number of cases eligible for advancement the more the privilege is diluted and the less valuable it becomes. I consider that the worst offender of all is the eminent domain case. As a concrete result of it, right now in Berkshire county justice is being delayed to ordinary litigants because of the occurrence of a number of eminent domain cases in this small county.* After all, the damage is to the pocket book. If relative merit is to be regarded, these cases do not approach those where a head of a family has been permanently hurt in an accident, and is reduced to destitution and to living on the dole while his case waits for the courts to find out how much in dollars and cents eminent domain petitioners should get. I confess to a feeling of frustrated anger whenever I think of this particular preference.

46. I annex as Appendix IV a list of these thirty preferences. Those who like to collect legal curiosa should find some gems among them. I doubt the completeness of the list; many of those

*These cases arise mostly from the flood control project on the Hoosic River. No doubt this was a needed public improvement, this being a very bad river when it is in flood.

on it are not to be found in any index, either of the official edition of the General Laws or of the privately published annotations.

47. I recommend the complete abolition of all statutory advancement or preference of one class of cases over another. It is better to leave such decision to the sound discretion of judges running trial lists. They are aware of the state of the dockets from time to time. They also read the papers and know when a disputed election case is coming up, and can judge whether the public good really requires an immediate decision or not. A dispute over the election of a mayor or county commissioner might warrant a special assignment for immediate trial, whereas one about a highway surveyor or tree warden might easily wait with no great harm to society. Sound common sense would always tell whether a strike was of such magnitude or violence as to require an immediate decision on a preliminary injunction. In short, the discretion as to order of trials of cases should definitely rest on the courts.

48. I would repeal all sections or delete parts of sections purporting to create inflexible preferences and leave only the declaratory section giving the courts general authority to advance any cases, General Laws, chapter 231, section 59A.

CONCURRENT JURISDICTION

49. We have a number of laws providing for concurrent jurisdiction of two courts over various proceedings. These laws are needlessly complicated and contain queer and illogical provisions. I give a few examples. General Laws, chapter 215, section 6, covers equity jurisdiction of the probate courts. This jurisdiction has for the most part been acquired since they were advanced from minor courts and recording offices to courts of record. They have jurisdiction, but only concurrent with the superior court, of equitable matters relative to the administration of estates and wills, trusts under written instruments, and matters connected with guardianships and conservatorships. But, oddly enough, in the same section they are given exclusive jurisdiction to enjoin foreclosures of mortgages on estates or trusts. Why the jurisdiction should be concurrent in one part and exclusive in another defies explanation. It is all the more irrational in that a mortgage is not a probate transaction at all, and one would expect to find jurisdiction in one or both of the two courts, supreme judicial and the superior, having general equity jurisdiction.

50. The concurrent jurisdiction over the trust under a written instrument is also an odd affair. Many such trusts are in fact

business enterprises used as substitutes for corporations or partnerships.

51. We also find in General Laws, chapter 204, section 14, concurrent jurisdiction in the supreme judicial court and the probate courts to approve settlements or authorize arbitrations of disputes between various probate fiduciaries or trustees in general and other parties; but section 13, authorizing compromise by a fiduciary of claims against the estate represented by him, gives exclusive jurisdiction to the probate courts.

52. While speaking of compromise, it is remarkable that as far as the statutes are concerned, the superior court, with by far the largest volume of litigation involving substantial amounts, has little power to authorize settlements. True, by virtue of its authority over its own officers it may authorize compromises and adjustments by receivers; undoubtedly it may, if asked, approve settlements by next friends of minors or its own appointed guardians ad litem. By contrast, it can be said that except for domestic trouble cases the probate courts or the supreme judicial court can approve settlements of nearly all types of controversies on the probate side. This, while a digression from the subject of concurrent jurisdiction, well illustrates the capriciousness of some of our jurisdictional provisions.

53. From an ideally logical point of view it could well be urged that concurrent jurisdiction of two or more courts is basically unsound. At this point it should be noted that what we are talking about is true concurrent jurisdiction, by which the moving party can pick his court and make his opponent stay there. It has no relation to the right to bring law suits in the district courts with the defendants having the right to remove them to the superior court. This is not concurrent jurisdiction at all; no recommendation to change it is made.

54. Two things can be done which will accomplish a desirable result.

55. First, the scattered laws relating to jurisdiction of courts can be gathered together under one heading. The present laws on concurrent jurisdiction can be made much simpler and the inconsistent or illogical provisions can be abolished.

56. Second, much wider use can be made of references of cases between the courts. A good start has been made with the "remanding" law, discussed elsewhere, paragraphs 36 to 39. Such power of transfer or reference exists now to a limited extent. For example, see for transfer to the supreme judicial court of equity

cases from the superior and probate courts, General Laws, chapter 214, sections 32 and 34.

57. I do not feel impelled at present to do more than open the subject for discussion, with a view to having ultimately a carefully worked out revision of the present jurisdictions of the various courts. However, the following tentative suggestions, by no means intended to cover the whole field, are offered for consideration:

Make the jurisdiction of the probate courts exclusive over equity petitions relating to strictly probate and domestic trouble matters:

Should jurisdiction over divorce be exclusive in one court or the other, superior or probate?

Transfer to the superior court jurisdiction over trusts under written instruments:

Provide for exclusive jurisdiction in the superior court over all mortgage foreclosure matters, this to include applications to foreclose under the Soldiers & Sailors Civil Relief Act:

Abolish original superior court jurisdiction in summary process cases, now rarely used, and retain the present appeal as of right from the district court, also rarely used:

Extend the power of transfers of cases between courts, either for trial of issues or complete disposition as follows:

Give the supreme judicial court power to order transfer of cases other than equity from the superior and probate courts, where no jury trial is involved:

Provide for transfer for trial or disposition between the superior and probate courts of all issues where jury is not claimed, with the approval of the chief justice of the superior court and the administrative committee of the probate courts:

Provide for similar facilities for transfer for trial or disposition between the superior and the land courts, with the approval of the judge of the land court and the chief justice of the superior court.

SMALL CLAIMS

58. I am glad to report that the recommendation in the third report to increase the small claims jurisdiction was favorably received. By Acts of 1960, chapter 160, it was raised from \$75 to \$100. As will be seen from the statistics of the district courts substantial use is made of this valuable jurisdiction.

ATTACHMENT OF WAGES

59. By Acts of 1960, chapter 235, recommended by His Excellency, the Governor, wage attachments are now confined to

suits on judgments. Last year this office recommended the abolition of this procedure; as a result, while the legislature was not prepared to go that far, it raised the exemption to \$50. This had the effect of substantially reducing the applications, which with the new law should practically disappear. The use of supplementary proceedings after judgment is more effective and more humane except under the most extraordinary circumstances. No change is made in the requirement of obtaining from a judge leave to attach, and I have no doubt that whenever applications are made from now on the first question asked will be to explain why supplementary process is not used.

RECIPROCAL SUPPORT

60. The recommendation in last year's report to amend the Reciprocal Support Act, General Laws, chapter 273A, section 9, was adopted by Acts of 1960, chapter 42. Statements of fact under oath contained in court papers transmitted from out of the state are made *prima facie* evidence of their truth. No astute respondent can now take advantage of the complainant's inability to attend in person and win an unjust victory by refusing to testify.

ZONING APPEALS

61. There has been an important revision of the procedure on appeals from decisions of boards of appeal under zoning by-laws and ordinances, Acts of 1960, chapter 365. This alters extensively section 21 of chapter 40A of the General Laws, both as to deadlines and procedural steps to be taken to perfect such an appeal. Counsel having to do with such appeals from now on should read the revised act carefully. One innovation is the provision for service on defendants by delivery or by certified mail within fourteen days of filing. Another new idea is a provision that no answer need be filed but a defendant may file one if he so desires.

SUPERIOR COURT RULES

62. The present superior court rules were promulgated in 1953. At this time what was done was substantially a technical revision and compilation of the rules issued in 1932, adding new rules and amendments made in the intervening years.

63. From time immemorial in this state many matters concerning court procedure have been fixed by statute. While this has been accepted for generations, I am decidedly of the opinion that under the constitution the courts have inherent power to regulate procedural matters by rules.

64. In 1938, after years of study, the United States courts adopted a comprehensive set of rules for civil procedure. These rules have had an influence in many of the states. Rules based largely on the Federal rules and experience in their application have been adopted in various jurisdictions. The most recent is Maine. In 1959 the courts of that state completely overhauled their rules and adopted a new set. This revision was quite frankly based on the Federal rules, with adaptations to local needs. Of all the states, the Maine laws and procedures most nearly resemble ours; this would be expected because of Maine having been part of Massachusetts up to 1820. An enabling act, Public Laws of 1957, chapter 159, had been passed giving the supreme judicial court of Maine power to make rules for the courts; this statute further provided that when the rules should become effective "all laws and rules in conflict therewith shall be of no further force and effect." Also, when the rules had been completed an act was passed, Public Laws of 1959, chapter 317, specifically repealing or amending statutes affected in whole or in part by the new rules. This took effect simultaneously with the rules themselves.* The extensiveness of the overhauling process in Maine is shown by the fact that this chapter has 420 sections.

65. The chief justice and the justices of the superior court have for some time been considering the matter of a revision of the rules of the court. Already a committee of the justices has been named by the chief justice to look into the whole subject matter. He also has in mind that at the opportune time he will request the cooperation of an advisory committee of lawyers. It is also to be hoped that the matter will be publicized through the various legal publications in the state, at bar association meetings and by the professors of procedure in the law schools.

66. As this subject is likely to be discussed in the future, I make a few comments based on my own experience in practice and as secretary for the past four years.

67. In the preparation of rules for any court there are three interests to be taken into consideration:

68. First, the paramount interest of the public in general. It is entitled to get the most efficient administration of justice possible within the limits of human ability—subject also, to the amount of money it is willing to pay for it. All this is, of course, a truism which must always be borne in mind.

*It is worth the time of any lawyer active in litigation to read carefully these new Maine rules and the valuable notes of the reporter, Professor Richard H. Field, of Harvard Law School.

69. Second, the interest of the court itself and the best use of judicial manpower made available by the legislature. Judges are not supermen, and like anyone else can do only one thing at a time. Rules should be framed with this as a background—a virtue not always to be found in statutes regulating procedure.

70. Third, the interest of the bar. On the bar and its adequacy the efficient handling of court cases must depend. Rules must, therefore, be so framed that in their day-to-day application they can be carried out by the trial bar. It is a presently existing fact of juridical life that the trial bar is limited in numbers, and that this condition will continue to exist as far ahead as we can now see. This is a situation by no means confined to our state; we often read Jeremiads from other states about the lack of an adequate number of trial lawyers. The finest set of rules would be only vain words printed on wasted paper if they were not to be applied by a competent staff of lawyers serving the court. Thus, no statute or rule should be passed on the preposterous assumption that every trial lawyer has unlimited time to devote to every case. The simpler rules can be kept the better; time lost by busy lawyers in purely procedural technicalities is time lost from the preparation for trial on the merits of the disputed issues, either of fact or law, and this trial on the merits is the only important feature of every contested law suit.

71. Another matter in which it is possible to make improvements is the separation of cases genuinely disputed from the non-contentious litigation (a high-toned expression for the collection of bad bills). In this latter class the court acts merely as a registry office through its clerks, establishing as a matter of record called a judgment that A owes B a certain amount of money; this in turn enables B to continue with efforts to collect it if he can or to take it as a tax loss if he cannot. The distinction between the two classes of entries is met to some extent by the present provision for an affidavit of no defense and motion for judgment, General Laws, chapter 231, section 59B, but it can be made still sharper.

72. Related to the collection case is the disposition of those cases which have no merit or defense as a matter of law, even though the declaration, bill of complaint or answer may not be demurrable. We do, indeed, have a half-hearted sort of provision for the use of an affidavit of no genuine issue of fact limited to contract cases, General Laws, chapter 231, section 59. If the opponent interposes a counter-affidavit about all the moving party gets is an advancement for trial, to the detriment of other parties

with cases on the trial list. It seems to the undersigned that the Federal rule No. 56, followed quite closely by the Maine rule of the same number, is a more effective method. I have already, in paragraph 39, suggested the possible use of this procedure in remanded cases brought back to the superior court by a loser in the district or municipal court.

73. From time to time there has been discussion of an enabling act such as was passed in Maine. This discussion has been on a somewhat academic plane, and it cannot be said that there has been any insistent demand for such an act up to the present time. But if as complete a piece of work is to be done as was the case in the Federal and the Maine courts, such an act would be desirable. This is so even though, as already indicated, paragraph 43, such an act would simply be declaratory of a power inherent in the courts themselves. To bring a matter such as this from the academic plane to the practical stage the bar associations and the law professors can be very helpful in supplementing the study already being made by the committee of the superior court judges. Nor do I overlook the influence of comments from this office; but in a project of such importance I do not intend to be a voice crying in the wilderness.

CRIMINAL PROCEDURE AND RELATED MATTERS

74. I have reported under the general discussion of the superior court the difficulties which arose this year in handling the criminal lists—troubles which we hope will be only temporary.

75. I can report a much happier development. The legislature has passed and His Excellency, the Governor, has approved a bill, Acts of 1960, chapter 565, which creates an unpaid committee charged with the duty of providing counsel for indigent criminal defendants. It is called the Massachusetts defenders' committee. It is given a wide discretion to use money to be appropriated for obtaining such counsel. An initial appropriation of \$75,000 will be sought. Curiously the committee itself is to be appointed by the judicial council, which has never had any executive functions. There are to be eleven members of the committee, serving for terms of four years. Along with many others I have reservations as to the advisability of imposing this appointment on the judicial council. The original bill, of which the undersigned was a sponsor with others interested in the work, placed the power in the supreme judicial court.

76. Apart from this question mark the bill is an excellent one. It is the culmination of a long effort. This office has, from the

beginning, taken an active part. It is a satisfaction to have been of help in contributing to the successful result. Differing from the many others who urged the reform, our motives were not entirely altruistic. While not unmindful of the plight of the poverty-stricken accused and his right to be represented by a lawyer, we also had very much in mind the relief of the bar from the burden of supplying defense counsel for nothing and relief of the superior court from the obligation of finding and assigning counsel.

77. The relief comes just in the nick of time. The private charitable corporation, The Voluntary Defenders, operating in Suffolk and nearby counties, has ended its work. Distributing committees of community funds have taken the position that if providing counsel for indigent criminal defendants is a public duty there is no reason for hard-pressed private charity to undertake it. A perfectly logical and unanswerable position, certainly.

78. This bill covers only criminal cases. It, therefore, does not cover representation of respondents under the sex offender law, General Laws, chapter 123A. Under section 5 such respondents must have counsel, if necessary to protect their rights, and counsel shall be appointed by the court. There is no provision for payment if the respondent is indigent. I recommend extension of the defenders' committee's power to the provision of counsel in this class of case.

79. I must again report with regret that I see no increase in the deplorably low number of lawyers able and willing to handle criminal cases. It is an oft-told tale—worse in some counties than others but bad enough everywhere.

80. As a sort of footnote to the subject of representation of indigent defendants in non-capital criminal cases, this office requested a check for the six months period, January through June, 1960. There were 470 such assignments of counsel, including those made to representatives of the Voluntary Defenders. This imposing number indicates the amount of the free-of-charge work imposed on the bar, as well as the number of times a superior court judge had to decide whether the case called for representation by counsel serving without pay. It must also be borne in mind that these assignments fell on the limited class of lawyers able and willing to handle criminal cases. It is small wonder that in our office we feel a sense of relief at the passage of the defenders' bill.

COMMENTS ON THE VARIOUS COURTS

81. In the following paragraphs I comment on the various courts. The statistics showing their work in the past year will be

found in Appendix V. Before dealing with our courts I believe a few general remarks are appropriate. We are fortunate in having a simple organization. While there can be improvements in various respects, in general we avoid the complicated and confusing systems of courts to be found in many of our sister states. Almost all the states are fond of courts with limited money jurisdiction, and with much overlapping. Many are plagued with survivals of the justices' courts of petty jurisdiction, often presided over by laymen, and still operating on a fee system. We are fortunate in having done away with them long ago.

82. I realize that both in this report and in earlier reports I have criticized some aspects of our system and have suggested changes. However, I firmly believe that we have here a court organization second to none and superior to most others. But the rational organization of the courts does not entirely explain the good results. No system can be any better than the men who operate it and our judiciary, both appellate and first instance, has always held a deservedly high rank. An important factor is our "life tenure" as it is usually called for all judges. Of course all members of the judiciary cannot be of equal ability; inevitably there have been some disappointments but our general average of judicial quality has been high.

THE SUPREME JUDICIAL COURT

83. The court has had a very busy year. The number of cases decided is higher than last year. The season was also marked by many cases involving complicated issues and matters of great public interest. To mention a few—the social security tax case, *State Tax Commission v. David W. Gray*, 1960 A.S. 395, the government center opinion, *Frederick Ayer, Jr., et al. v. Commissioner of Administration, et al.*, 1960 A.S. 453, the Prudential building opinions, 1960 A.S. 785 and 1960 A.S. 1029.

84. Nevertheless, the court again kept fully current with its work. All cases submitted or argued through the May sitting were decided by the last week in July.

85. During the past year the court and the administration of justice suffered the loss of Honorable James J. Ronan. He died suddenly December 29, 1959. An associate justice since 1938, for many years before that a successful and learned lawyer, including service as assistant attorney general, his opinions were models of inexorable legal analysis. As this report is written, his successor has not been appointed.

86. As recommended by this office in last year's report (paragraph 55) the last of the "interlocutory" proceedings formerly heard only by the full bench, were transferred to the single justice session, Acts of 1960, chapter 207, in the same form as recommended. It was a timely change, as these proceedings had been on the increase.

87. The court still must make the western circuit, that is, the required sittings in Worcester, Springfield, Pittsfield and Northampton-Greenfield. This is taken care of in September. The time has come to consider whether they are now needed. With the new Massachusetts Turnpike in operation coming into Boston from even as far away as Pittsfield is simple.

88. The court has always been liberal in adding cases from the five western counties to the Boston lists, and taking care of the average present number of cases from these five western counties would be no problem at all.

89. Statistical information on the details of the court's work, both the full bench sittings and the single justice session will be found in Appendix V.

SUPERIOR COURT

90. Much of this report has been taken up by discussion of the problems of the superior court. The chart of statistics for the work of the court from July 1, 1959, to June 30, 1960, will be found in Appendix V.

91. I mention an experiment in Suffolk county; the chief justice established a special session for trials of contract cases with juries. It has worked well. It ran for fifteen weeks between February and June of this year. 79 cases were assigned for trial in this session; of these 30 were tried through to a verdict, 40 were settled before the trial ended, 4 were disposed of by technical dispositions, or a total of 74, leaving only 5 still pending on the docket. The session somewhat resembles the old 6th session, recalled by older lawyers, for trials of cases removed or appealed from lower courts and contract cases up to \$2,000; this was a statutorily prescribed session, established by Acts of 1894, chapter 283, repealed by Acts of 1932, chapter 144.

92. There was one unexpected development this year, viz., a drop in the number of equity cases entered. It is hard to explain this, in view of the general increase in the volume of litigation.

PROBATE COURTS

93. These highly important courts go on in much the same manner as in past years. They are strictly county courts; it is no exaggeration to say that as among themselves their organization, or lack of it, is about the same as in 1784 when they were established. The administrative committee has limited authority on purely technical matters, but this by no means constitutes an organization of these courts—valuable as its technical accomplishments have been in the matters of forms and rules of procedure.

94. Based as they are on artificial county boundaries, their caseloads, litigated and administrative, show wide variations. All the judges except in the island counties, Dukes County and Nantucket, are full-time and may not practice law. But there are salary differentials between the judges—as if it is in some manner or other less of a deprivation to be excluded from practicing law in Pittsfield, for example, than in Worcester. (There is also one special judge, limited in his sitting to the four western counties.)

95. While in theory the full-time judges are required to answer calls to sit in other counties, this remains theory only and such sitting is on a voluntary basis in fact. It is hard to imagine a cruder method of meeting crises resulting from sudden jamming of caseloads or the inevitable incidence of sickness. See General Laws, chapter 217, section 8. It has also worked out in practice that Judge Jeremiah J. Sullivan of Nantucket has functioned as a sort of handyman, often filling in for other judges in times of vacation and sickness. It is very nice of the judge to do this, but continuity of court sessions should not depend directly or indirectly on the continued good health and willingness to be accommodating of one man.

96. In fact, there is no court anywhere in the United States which combines strictly probate work with divorce jurisdiction. There are in some states separate courts under various names which have a probate jurisdiction, but in all states except here divorce is assigned to the court or courts corresponding to our superior court. States which have separate chancery courts of general equity jurisdiction usually assign divorce to them. Other domestic trouble cases are more varied as to the court or courts having jurisdiction, but it is not usual to combine them with probate business. By no means all the states have probate courts at all; a common method of handling estates, trusts, guardianships and the like is to assign them also to the trial court of general jurisdiction. I mention all this to emphasize the peculiar import-

ance of our misnamed probate courts in Massachusetts, contrasting them with their rudimentary organization.

97. So, while the organization of the probate courts has remained almost static, their jurisdiction has been vastly broadened. Originally they were nothing but registry offices for the probating of wills, granting letters of administration, appointing guardians, approving their accounts, with small judicial power of no prestige, their decisions being subject to automatic trial *de novo* as of right on appeal. But they are now courts of record, with jurisdiction over such broad fields as trusts under written instruments, divorce, separation, custody of children, to mention only some of their more important functions.

98. I propose the reorganization of the probate courts along these lines:

A. The present fourteen separate courts to be converted into a state-wide probate court, to have as initial membership the present corps of judges of the fourteen courts, plus a chief justice with full administrative authority;

B. Venue to remain unchanged based on the county boundaries;

C. The present registries of probate to be maintained, and the counties will continue to elect the registers of probate;

D. All judges will be required to devote full time to their judicial duties; salaries of all shall be uniform, except for some additional salary to the chief justice;

E. An administrative office to be set up in Boston for the chief justice;

F. The court to maintain at all times an *ex parte* session in Boston, similar to the equity motion session of the superior court;

G. The state will assume all expenses of the operation of the courts, including the registries of probate, if provision therefor shall not already have been made;

H. The court to be required to maintain sittings in each county as public convenience shall from time to time require;

I. The administrative committee of the probate courts to be replaced by the chief justice.

99. This suggestion is, of course, based directly on the organization of the superior court.

100. Another method would be to merge the probate courts with the superior court. It is true as above mentioned that in

many states all or part of the jurisdiction handled by the probate courts here is dealt with by the local equivalent of the superior court. However, we have been used to having separate probate courts; I, therefore, do not suggest such a radical departure from our present system as the merger of the two courts. I would, however, suggest that the state-wide probate court be given a new name, more consistent with its actual jurisdiction, as Domestic Relations and Probate Court, or something similar.

LAND COURT

101. I report below the statistics of the land court for the twelve months ending June 30, 1960. There was a slight over-all decrease from the previous year, although the most important category, the petition for original registration, shows an increase.

102. The petition for confirmation of title without registration under General Laws, chapter 185, sections 26A and 56A, continues to be little used, only six of them this year. In view of the insignificant use of this remedy, I recommend that it be abolished and the two sections referred to above be repealed.

103. No payments were made this year from the assurance fund.

MUNICIPAL COURT OF THE CITY OF BOSTON

104. The statistics for the municipal court of the city of Boston will be found in Appendix V. Net civil entries after removals are practically the same as last year, 19,637 in 1959 and 19,669 this year. This court handled an increased volume of the remanded cases, and during the reporting period it tried no less than 650 of them. Of these cases 255 were retransferred to the superior court, leaving 395 finally ended; there were also 811 cases disposed of by settlements or technical dispositions; thus 1,206 cases originally in the superior court were finally ended in the municipal court. The percentage of losers asking for retransfer increased over the previous year, but the ratio of settlements to trials also increased markedly. Last year between defaults, non-suits and agreements 322 cases were disposed of as against 365 trials, whereas this year these dispositions without trial, almost all of which are in fact settlements, are 811 as against 650 tried.

105. Use of the reciprocal support law continues to increase. As example of a kind of unofficial social service is the procuring

of work for unemployed respondents who are then enabled to make agreements for support of the out-of-state dependents.

106. Criminal cases have shown a small increase. Parking tickets show a large increase this year.

DISTRICT COURTS

107. In the reporting period July, 1959, through June, 1960, the district courts show a general increase in almost all of the different categories of their jurisdiction. See Appendix V for full details of these figures. Net civil entries after removals have gone from 66,968 last year to 69,619 this year. This increase in civil litigation parallels a similar increase in the new entries in the superior court, and indicates a continuation of the gradual trend upward of litigation throughout the state. Criminal proceedings also show an increase. Attention should be particularly called to the Reciprocal Support law; collections under this law have nearly reached \$1,200,000. At least 90% of this represents money that some welfare department, here or in another state, would have had to pay out for support of dependents.

108. The remanded cases have already been discussed from the procedural aspect, paragraphs 36 to 39. They continue to be handled without difficulty by the district courts. The proportion of settlements continues to be high, and trials also have increased over 1959. We note that the percentage of losers seeking retransfer to the superior court appears to be on the increase. The ratio varies greatly in different courts. Findings of over \$1,000 are rare, indicating that the superior court judges are able to get a good idea of the value of a case assuming the plaintiff is entitled to win it when it comes up on the question of transfer.

109. Several of the clerks have mentioned a by-product of the remanded cases. They notice more of the younger lawyers coming in for the trials, and improving as they get experience. The more, the better.

110. On the criminal side no statutory changes of any significance have been made this year. But there have been decisions in the single justice session of the supreme judicial court about the handling of juveniles charged with serious crimes, bound over to the grand jury and thereafter indicted. This has been the subject of consideration by the administrative committee, district attorneys, superior court clerks handling criminal dockets and this office. It is likely that further legislation on the subject will be proposed.

111. I now deal at some length with another matter concerning the district courts, the office of special justice.

SPECIAL JUSTICES

112. This is a part-time, unsalaried office. The special justice is expected to practice law for his living. Service is paid for by the day under an odd formula. By this the special justice gets a minimum of \$25 a day and a maximum of \$46.20, i.e., the per diem of a full-time judge when he sits in a court presided over by such a judge. See General Laws, chapter 218, section 6, and General Laws, chapter 218, section 84. It is possible to sit in more than one court the same day, and thus receive more than one per diem.

113. By General Laws, chapter 218, section 6, the number of these special justices is to be reduced until there is one for each presiding judge. This process of attrition was begun by Acts of 1941, chapter 664. At that time there was a minimum of 147.* After nineteen years the attrition is nearly completed; there are now eighty-one special justices as against seventy-six presiding justices in the seventy-two district courts. Of the eighty-one, forty-seven are commissioned as special justices in full-time courts, as against forty-four presiding judges of these same courts.

114. Strange as it may seem, there is no obligation whatsoever to sit at all; thus a special justice is at liberty to suit his own convenience as to how often he will sit. This has the anomalous result of there being no definite number of them who can be counted on as available at any given time. While they may be called on to sit in courts other than their own, they are in a position to pick and choose those in which they will sit.

115. We thus have two extremes among them—those who sit frequently or even almost continuously and those who sit but rarely or not at all (not referring here to aged or sickly judges who cannot sit). A paradoxical result of all this is that there are times when a court needing a special justice on short notice finds it difficult to get one, although there may be many of them in the state not sitting that very day.

116. The office is, in fact, an anomaly. But at present it is a necessity. The district courts could not function without the extra judicial manpower furnished by those of the special justices who are willing to sit when called upon. As already indicated this is a vague and shifting number.

*There was a variable factor. In 67 of the courts the law required two special justices, but the governor might appoint a third in courts whose districts had over 100,000 population. There were in fact some of these extra appointments, so the figure of 147 is a minimum.

117. One solution is suggested by a bill filed this year, Senate 251. This would gradually, as vacancies occur, change present special justices in courts requiring full-time service to what are styled associate justices, to serve full time and to give up their law practices. The salary would be slightly less than that of the presiding judge. This office neither prepared, sponsored nor supported this bill. It is arbitrary in fixing the number of associate justices at one for each presiding justice in the full-time courts. It is not correlated to actual need based on a study of the state-wide district court caseload. But it is fundamentally correct in recognizing on the one hand that the special justice is an anachronism, and on the other, that the entire caseload in the full-time district courts cannot be carried by the presiding judges alone. I am fully convinced that a doubling of the present forty-four full-time judges is not needed. This I feel is a correct statement even if hereafter the use of district court judges in the superior court should be resumed, on an average of six to eight at a time.

118. The bill also has the virtue of increasing the use of full-time judges; to the undersigned it is axiomatic that the ideal of court administration is full-time judicial service throughout the whole system, with no mixing of judicial functions and advocacy. That this goal may not be fully attainable as a practical matter in the immediate future does not make it any the less desirable. If the anomalous part-time special justice in the full-time courts can gradually be done away with, it will be a long step toward the reaching of the ideal.

119. In this same connection, there is one other matter to speak about. There was also a bill to abolish the special justice in one particular court and provide for an associate, full-time justice there. I do not recommend any favorable consideration of this or any other bill confined to a single court. The objections should be obvious. Each full-time court is in reality one segment of a state-wide system of district courts. Any changes should be dictated by the needs of the whole system and not of any one court. Haphazard additions here and there will tend to throw the whole system out of balance. No such important change as the creation of what would in fact be an entirely new judicial office should be undertaken without careful study.

120. Our problem is as follows:

In the seventy-two district courts outside the municipal court of the city of Boston how many full-time judges, whatever title they may have, are needed for the following services?

A. To hear civil cases other than ejectments, supplementary

process, small claims and reciprocal support in all the seventy-two courts;

B. To hear criminal cases, ejectments, supplementary process, small claims and reciprocal support, in short, all matters in the full-time courts;

C. To fill in when needed in the part-time courts, on other than civil cases included under (A), in case of vacancy, sickness, vacation or on days when a part-time court has an unusually heavy list making a second session desirable on short notice, and a special justice cannot be found ready and willing to sit. (Note that the bill which gave rise to this discussion contemplates the continuance of the special justices in the part-time courts.)

121. In approaching this problem there are considerations which must be given weight other than analysis of court statistics. An important one is that the bar and the public are generally used to having criminal cases in the district courts disposed of in the morning. This is particularly true where the accused pleads guilty. In civil cases they are more tolerant of delay, but still like to get through the same day the case is on the list for trial. Police officers prosecuting charges also are anxious to finish their court work early. Often enough the officer has to appear on his day off; if it is a day of duty for him he is off the street or out of his cruiser while in court and naturally police chiefs and station captains take a sour view of lengthy court absences of their men. Thus the district court is to a very great extent a morning court. There should always be a judge who will rapidly dispose of the guilty pleas, requests for continuances, fixing of bail, hearing of very short contested matters, either civil or criminal. Lengthy cases, either civil or criminal, whether on the merits or on probable cause, may and often do require the use of two or more sessions. And it should be borne in mind that a lengthy case in a district court involves a different concept of what is "long" than would be applied in the other trial courts. Any case taking, say, over two hours in a district court is a "long" case. Fortunately, it is usually possible to calculate these in advance. Civil trial lists are made up, and experienced clerks can usually size one up, and figure in advance about how many cases will be ready for trial. If a criminal case is going to be contested seriously, it is usual for the defendant to ask for a continuance to some definite date.

122. Allowance must be made for sickness and vacations. (The common vacation period is thirty days.) While it is possible to calculate over a period of years the average number of judges who will be out sick, sickness may strike more than the average on

occasions. For example, as this report is being written in October none of the present full-time district court judges happens to be out sick, but at one time earlier this year no less than four were out at once for a period of several weeks. Therefore, in considering the incidence of sickness we do not consider the average, but make the best estimate of the highest probable number likely to be disabled at any one time. We may further have what the trial bar calls "partial disability." A judge may recover from some sickness to the extent that he can sit in his own court, but still not be well enough to travel to other courts without danger of a relapse.

123. I have done but little more than to pose the problem. An analysis of the district court caseloads is in progress right now in this office. But I hope that the problem will be studied not only by the judges and special justices of the district courts but by bar associations.

BOSTON JUVENILE COURT

124. The statistics of the Boston juvenile court are stated later in Appendix V. We note without pleasure that the volume of cases has increased, and is now not far from the total of two years ago. The quarters are about as satisfactory now as they ever can or will be as long as the court has to stay in the poor location in the half basement in the rear of the old wing of the Pemberton Square courthouse.

Respectfully submitted,

JOHN A. DALY,
Executive Secretary

301 NEW COURT HOUSE
BOSTON, MASSACHUSETTS

APPENDIX I

COMPUTATION OF THE COSTS OF
OPERATING THE COURTS

The cost of administering and operating the various courts of the commonwealth was determined by referring to the following sources of information.

1. Public Document No. 29 (Annual Report on the statistics of county finances for the year ending December 31, 1959, Bureau of Accounts, Department of Corporations and Taxation).

2. House Bill No. 2881, 1960 session (estimates of county receipts and expenditures for the year ending December 31, 1960).

3. Budget Recommendations of His Excellency, Governor Foster Furcolo, for the fiscal year beginning July 1, 1960, and ending June 30, 1961.

4. Financial Report of Comptroller of the Commonwealth, Frederick J. Sheehan, for the fiscal year ending June 30, 1959.

5. City of Boston and County of Suffolk Budget Recommendations for the fiscal year 1960.

6. Summary of receipts and expenditures for the fiscal year ending December 31, 1959, developed from the records of the Auditing Department, City of Boston.

7. Records of Real Property Division of the City of Boston (material developed by personal contact and conference).

8. Records of County Commissioners and Treasurers examined.

The following schedules reflect the cost of operating all the courts in the commonwealth for the twelve month period reported. There is an increase of about 2.6% over the next prior period. The smaller rate of increase over that of previous periods is partially explained by the fact that no district court judges sat in the superior court, fewer jurors were used and fewer hearings by auditors were conducted. Some of the expenses of operating the offices of the district attorneys have been included as court expenses.

NET COST OF COURTS PAID BY THE COMMONWEALTH

(For Fiscal Year Ending June 30, 1959)

Supreme Judicial Court	\$ 307,846.80
Superior Court	880,001.59
Probate and Insolvency Courts	650,318.40
Land Court	197,478.19
Board of Bar Examiners	15,403.38
Judicial Council	8,000.00
Administrative Committee of the District Courts	13,986.79
Pensions (Retired Judges)	134,521.20
Probation	517,386.36
Suffolk County Courthouse Maintenance (Acts of 1935, Chapter 474)	213,740.09
GRAND TOTAL	\$2,938,682.80

SUPREME JUDICIAL COURT

Justices' Salaries	\$155,000.00
Justices' Travel	2,700.00
Clerk's Salary	14,300.00
Clerical Assistance to Clerk	4,204.00
Clerical Assistance to Justices	59,123.03
Court Expenses	7,000.00
Court Officers' and Messengers' Salaries	6,602.68
Clerk for Suffolk County Salary	1,500.00
Social Law Library	3,500.00
Office of Executive Secretary	27,755.92
Reporter of Decisions' Salary	10,000.00
Reporter of Decisions' Clerical Assistance and Expenses	16,173.77
Total (Gross)	\$307,859.40
Less—Receipts	—12.60
TOTAL (NET)	\$307,846.80

SUPERIOR COURT

Justices' Salaries	\$688,733.59
Justices' Travel	44,772.20
Assistant Clerk (Suffolk County)	1,500.00
Court Expenses	31,000.00
District Court Justices in Superior Court, Salaries	60,000.00
District Court Justices in Superior Court, Expenses	8,695.80
Special District Court Justices (G.L., C. 212, § 14E)	45,400.00
Total (Gross)	\$880,101.59
Less—Receipts	—100.00
TOTAL (NET)	\$880,001.59

PROBATE AND INSOLVENCY COURTS

Judges' Salaries (Additional Sittings)	\$ 5,000.00
Judges' Expenses (Additional Sittings)	1,500.00
Reimbursement for Official Bonds	555.00
Administrative Committee Expenses	481.08
	<hr/>
	\$ 7,536.08

BARNSTABLE COUNTY

Judge's Salary	\$ 11,500.00
Register's Salary	7,150.00
Assistant Register's Salary	4,950.00
Clerical Assistance to Register	12,130.89
	<hr/>
	\$ 35,730.89

BERKSHIRE COUNTY

Judge's Salary	\$ 11,500.00
Register's Salary	7,700.00
Assistant Register's Salary	5,500.00
Clerical Assistance to Register	17,240.91
	<hr/>
	\$ 41,940.91

BRISTOL COUNTY

Judges' Salaries (2)	\$ 26,000.00
Register's Salary	9,350.00
Assistant Registers' Salaries (2)	12,650.00
Clerical Assistance to Register	46,083.56
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	\$ 94,083.56

DUKES COUNTY

Judge's Salary	\$ 4,500.00
Register's Salary	4,950.00
Clerical Assistance to Register	3,146.00
	<hr/>
	\$ 12,596.00

ESSEX COUNTY

Judges' Salaries (2)	\$ 26,000.00
Register's Salary	9,900.00
Assistant Registers' Salaries (3)	18,712.28
Clerical Assistance to Register	55,577.72
	<hr/>
	\$ 110,190.00

FRANKLIN COUNTY

Judge's Salary	\$ 11,500.00
Register's Salary	7,150.00
Assistant Register's Salary	4,950.00
Clerical Assistance to Register	6,712.22
	<hr/>
	\$ 30,312.22

HAMPDEN COUNTY

Judges' Salaries (2)	\$ 26,000.00
Register's Salary	9,350.00
Assistant Registers' Salaries (3)	18,150.00
Clerical Assistance to Register	46,496.41
	<hr/>
	\$ 99,996.41

HAMPSHIRE COUNTY

Judge's Salary	\$ 11,500.00
Register's Salary	7,150.00
Assistant Register's Salary	4,950.00
Clerical Assistance to Register	6,551.88
	<hr/>
	\$ 30,151.88

MIDDLESEX COUNTY

Judges' Salaries (3)	\$ 43,500.00
Register's Salary	11,550.00
Assistant Registers' Salaries (5)	34,650.00
Clerical Assistance to Register	144,674.06
	<hr/>
	\$ 234,374.06

NANTUCKET COUNTY

Judge's Salary	\$ 4,500.00
Register's Salary	4,950.00
Clerical Assistance to Register	3,146.00
	<hr/>
	\$ 12,596.00

NORFOLK COUNTY

Judges' Salaries (2)	\$ 29,000.00
Register's Salary	9,900.00
Assistant Registers' Salaries (3)	19,800.00
Clerical Assistance to Register	51,561.80
	<hr/>
	\$ 110,261.80

PLYMOUTH COUNTY

Judge's Salary	\$ 11,500.00
Register's Salary	7,700.00
Assistant Register's Salary	5,500.00
Clerical Assistance to Register	26,116.05
	<hr/>
	\$ 50,816.05

SUFFOLK COUNTY

Judges' Salaries (3)	\$ 45,750.00
Register's Salary	11,550.00
Assistant and Deputy Assistant Registers' Salaries (7)	34,405.76
Clerical Assistance to Register	167,633.69
	<hr/>
	\$ 259,339.45

WORCESTER COUNTY

Judges' Salaries (2)	\$ 26,000.00
Register's Salary	9,900.00
Assistant Registers' Salaries (4)	25,300.00
Clerical Assistance to Register	51,920.13
	<hr/>
	\$ 113,120.13

Total (Gross)	\$1,243,045.44
Less—Receipts	—592,727.04
	<hr/>

TOTAL (NET)	\$ 650,318.40
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LAND COURT

Judges' and Statutory Officers' Salaries	\$ 71,250.00
Administration Expenses	248,382.36
Total (Gross)	\$319,632.36
Less—Receipts	—122,154.17
Total (Net)	\$197,478.19

BOARD OF BAR EXAMINERS

Administration Expenses	\$ 36,285.98
Less—Receipts	—20,882.60
Total (Net)	\$ 15,403.38

PENSIONS

Retired Judges	\$134,521.20
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JUDICIAL COUNCIL

Administration Expenses	\$ 8,000.00
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ADMINISTRATIVE COMMITTEE OF DISTRICT COURTS

Administration Expenses	\$ 13,986.79
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PROBATION

Office of Commissioner of Probation (Salaries and Administration Expenses)	\$228,190.94
Committee on Probation (Administration Expenses)	985.00
Superior Court* (Probation Officers' Salaries)	280,931.88
Office—Supervisor of Probation (Administration Expenses)	7,278.54
Total	\$517,386.36

SUFFOLK COUNTY COURTHOUSE

Maintenance (Acts 1935, C. 474)	\$213,740.09
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*(Acts 1956, C. 731, § 29, compensation of probation officers appointed for the Superior Court is paid by the Commonwealth.)

SUFFOLK
CITY OF BOSTON
COUNTY COURT EXPENDITURES

SUPREME JUDICIAL COURT

Clerk's Office for Suffolk County			
Salaries & Expenses	\$98,706.17		
Less—Receipts		—\$1,762.50	
Total (Net)			\$96,943.67

SUPERIOR COURT

General Expenses*			
Salaries & Expenses		\$116,739.25	
Court Officers Division**			
Salaries & Expenses		374,916.37	
Criminal Expenses			
Clerks & Clerical Assistants, etc.			
Salaries & Expenses	\$283,460.79		
Jurors (Fees, etc.)	105,759.58		
Witnesses (Fees, etc.)	86,315.43		
District Attorney's Office	233,433.82		
Probation Department	82,785.00		
Total (Gross) Criminal ..	\$791,754.62		
Less—Receipts		—\$36,018.47	
Total (Net) Criminal			\$755,736.15

Civil Expenses			
Clerks & Clerical Assistants, etc.			
Salaries & Expenses	\$590,542.68		
Masters	16,887.75		
Auditors	131,887.93		
Jurors (Fees, etc.)	258,544.00		
Total (Gross)	\$997,862.36		
Less—Receipts		—\$86,548.93	
Total (Net)			\$911,313.43
Grand Total (Net)			
Superior Court			\$2,158,705.20

* (Stenographic & confidential messenger; also furnishes supplies, materials and equipment for both Civil and Criminal Sessions.)

** (Deputy Sheriffs and Court Officers; salaries, expenses, etc., for Civil and Criminal Sessions.)

PROBATE AND INSOLVENCY COURT

General Expenses			
Salaries & Expenses	\$91,955.77		
Less—Receipts		—\$357.10	
Total (Net)			\$91,598.67

MUNICIPAL COURT OF THE CITY OF BOSTON

General Expenses			
Salaries & Expenses	\$990,747.81		
Less—Receipts		—\$397,363.44	
Total (Net)			\$593,384.37

MUNICIPAL COURT OF THE CHARLESTOWN DISTRICT

General Expenses

Salaries & Expenses	\$91,922.71
Maintenance*	11,948.48

Total (Gross)	\$103,871.19
Less—Receipts	—\$18,030.35

Total (Net)	\$85,840.80
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*(About one-half of building is used by Police Dept. and Civil Defense; heating expense is paid by Police Dept.)

EAST BOSTON DISTRICT COURT

General Expenses

Salaries & Expenses	\$93,805.71
Maintenance*	13,877.97

Total (Gross)	\$107,683.68
Less—Receipts	—\$14,610.64

Total (Net)	\$93,073.04
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*(Building used 100% by Court; Police Dept. supplies heat; Operating Personnel charged to Boston Real Property Division.)

MUNICIPAL COURT OF THE SOUTH BOSTON DISTRICT

General Expenses

Salaries & Expenses	\$92,388.39
Maintenance*	17,156.41

Total (Gross)	\$109,544.80
Less—Receipts	—\$29,275.68

Total (Net)	\$80,269.12
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*(Building used as a municipal building; courthouse, gymnasium, etc.; court uses about one-third.)

MUNICIPAL COURT OF THE DORCHESTER DISTRICT

General Expenses

Salaries & Expenses	\$153,026.56
Maintenance*	26,312.97

Total (Gross)	\$179,339.53
Less—Receipts	—\$30,598.94

Total (Net)	\$148,740.59
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*(Building used 100% by court.)

MUNICIPAL COURT OF THE ROXBURY DISTRICT

General Expenses

Salaries & Expenses	\$363,893.35
Maintenance*	32,662.18

Total (Gross)	\$396,555.53
Less—Receipts	—\$91,448.61

Total (Net)	\$305,106.92
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*(Building used 100% by court.)

MUNICIPAL COURT OF THE WEST ROXBURY DISTRICT

General Expenses			
Salaries & Expenses	\$115,467.36		
Maintenance*	25,336.69		
<hr/>			
Total (Gross)	\$140,804.05		
Less—Receipts**		—\$22,882.85	
<hr/>			
Total (Net)			\$117,921.20

* (Building used 100% by court.)

** (\$9,811.50 of this amount was reimbursed by the Commonwealth for Special Justices, G.L., C. 212, § 14E.)

MUNICIPAL COURT OF THE BRIGHTON DISTRICT

General Expenses			
Salaries & Expenses	\$72,683.13		
Maintenance*	23,760.84		
<hr/>			
Total (Gross)	\$96,443.97		
Less—Receipts		—\$36,969.18	
<hr/>			
Total (Net)			\$59,474.79

*(75% of building is used by court.)

DISTRICT COURT OF CHELSEA

General Expenses			
Salaries & Expenses	\$105,120.55		
Maintenance*	12,679.88		
<hr/>			
Total (Gross)	\$117,800.43		
Less—Receipts		—\$17,837.47	
<hr/>			
Total (Net)			\$99,962.96

*(About two-thirds of building is used by court.)

BOSTON JUVENILE COURT

General Expenses			
Salaries & Expenses	\$129,310.07		
Less—Receipts		—\$75.00	
<hr/>			
Total (Net)			\$129,235.07

PEMBERTON SQUARE COURTHOUSE

Maintenance			
Salaries & Expenses	\$718,884.29		
Less—Statutory share of Commonwealth & Telephone Commis- sions		—\$217,610.41	
<hr/>			
Total (Net)			\$501,273.88

SOCIAL LAW LIBRARY

General Expenses			\$2,000.00
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MENTAL HEALTH

General Expenses			
Salaries & Expenses	\$56,799.28		
Less—Receipts		—\$2,826.60	
<hr/>			
Total (Net)			\$53,972.68

PENSIONS AND ANNUITIES

General Expenses*			\$110,492.15
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*(This represents annual payment to non-contributing members charged to Suffolk County for Judiciary, etc.)

SUFFOLK COUNTY

SUMMARY OF COURT EXPENDITURES

	<i>Gross</i>	<i>Net</i>
Supreme Judicial Court	\$ 98,706.17	\$ 96,943.67
Superior Court	2,281,272.60	2,158,705.20
Probate and Insolvency Court	91,955.77	91,598.67
Municipal Court of the City of Boston	990,747.81	593,384.37
Municipal Court of the Charlestown District	103,871.19	85,840.80
East Boston District Court	107,683.68	93,073.04
Municipal Court of the South Boston District	109,544.80	80,269.12
Municipal Court of the Dorchester District	179,339.53	148,740.59
Municipal Court of the Roxbury District	396,555.53	305,106.92
Municipal Court of the West Roxbury District	140,804.05	117,921.20
Municipal Court of the Brighton District	96,443.97	59,474.79
District Court of Chelsea	117,800.43	99,962.96
Boston Juvenile Court	129,310.07	129,235.07
Pemberton Square Courthouse	718,884.29	501,273.88
Social Law Library	2,000.00	2,000.00
Mental Health	56,799.28	53,972.68
Pensions and Annuities	110,492.15	110,492.15
TOTAL	\$5,732,211.32	\$4,727,995.11

BARNSTABLE

COUNTY COURT EXPENDITURES

Clerk of Courts	
Salaries & Expenses	\$19,497.63
Probate Court & Registry	
Salaries & Expenses	8,806.80
Law Libraries	
Salaries & Expenses	4,595.18
Superior Court	
<i>Criminal</i>	
Court Officers & Stenographers	\$3,924.00
Probation Department	3,187.86
Jurors (Fees, etc.)	9,019.85
Witnesses (Fees, etc.) ..	4,276.30
District Attorney's Office	3,091.73
Misc. Expenses	2,254.23
	<hr/>

25,753.97

Civil(Includes Supreme Ju-
dicial & Land Cts.)

Court Officers & Stenographers	\$9,336.00
Jurors (Fees, etc.)	12,340.35
Auditors	2,297.25
Masters	2,407.50
Misc. Expenses	1,406.63
	<hr/>

27,787.73

District Courts		
Salaries & Expenses (Includes courthouse rentals)	96,376.36	
Courthouse Mainte- nance & Operation ..	26,583.52	
Courthouse Bonded Debt Int. pd. 1959	6,510.00	
	<hr/>	
Total (Gross)	\$215,911.19	
Less—Receipts		—\$31,396.57
		<hr/>
Total (Net)		\$184,514.62

BERKSHIRE

COUNTY COURT EXPENDITURES

Clerk of Courts		
Salaries & Expenses	\$21,797.33	
Probate Court & Registry		
Salaries & Expenses	6,160.55	
Law Libraries		
Salaries & Expenses	8,357.32	
Superior Court		
<i>Criminal</i>		
Court Officers & Stenographers	\$4,299.00	
Probation Department	3,063.84	
Jurors (Fees, etc.)	8,946.60	
Witnesses (Fees, etc.) ..	1,193.40	
District Attorney's Office	1,671.80	
Misc. Expenses	1,181.24	
	<hr/>	
	20,355.88	
<i>Civil</i>		
(Includes Supreme Ju- dicial & Land Cts.)		
Court Officers & Stenographers	\$8,262.39	
Jurors (Fees, etc.)	21,271.69	
Auditors	2,913.39	
Masters	1,501.44	
Referees	1,435.50	
Misc. Expenses	862.53	
	<hr/>	
	36,246.94	
District Courts		
Salaries & Expenses (Includes courthouse rentals)	179,966.13	
Courthouse Mainte- nance & Operation ..	24,033.33	
	<hr/>	
Total (Gross)	\$296,917.48	
Less—Receipts		—\$80,062.32
		<hr/>
Total (Net)		\$216,855.16

BRISTOL

COUNTY COURT EXPENDITURES

Clerk of Courts	
Salaries & Expenses	\$82,704.58
Probate Court & Registry	
Salaries & Expenses	18,853.28
Law Libraries	
Salaries & Expenses	27,797.58
Superior Court	
<i>Criminal</i>	
Court Officers & Stenographers	\$17,256.79
Probation Department	15,614.95
Jurors (Fees, etc.)	28,861.80
Witnesses (Fees, etc.) ..	17,183.00
District Attorney's Office	12,340.17
Misc. Expenses	9,802.32

101,059.03

Civil(Includes Supreme Ju-
dicial & Land Cts.)

Court Officers & Stenographers	\$37,735.56
Jurors (Fees, etc.)	55,007.64
Auditors, Masters and Referees	8,958.87
Misc. Expenses	2,720.47

104,422.54

District Courts	
Salaries & Expenses	337,617.52
Courthouse Mainte- nance & Operation ..	154,395.29
Courthouse Bonded Debt Int. pd. 1959 ..	6,317.50

Total (Gross) \$833,167.32

Less—Receipts —\$137,018.37

Total (Net) \$696,148.95

DUKES COUNTY

COUNTY COURT EXPENDITURES

Clerk of Courts	
Salaries & Expenses	\$7,497.98
Probate Court & Registry	
Salaries & Expenses	1,258.48
Law Libraries	
Salaries & Expenses	684.38
Superior Court	
<i>Criminal</i>	
Court Officers & Stenographers	\$1,612.64
Jurors (Fees, etc.)	3,671.75
Witnesses (Fees, etc.) ..	692.07
District Attorney's Office	128.48
Misc. Expenses	1,387.08

7,492.02

Civil

(Includes Supreme Judicial & Land Cts.)

Court Officers & Stenographers	\$731.47
Jurors (Fees, etc.)	91.23
Auditors	229.50

1,052.20

District Courts

Salaries & Expenses	15,821.36
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Courthouse Maintenance & Operation ..	3,623.67
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Courthouse Bonded Debt Int. pd. 1959 ..	5,500.00
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Total (Gross)	\$42,930.09
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Less—Receipts	—\$2,949.08
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Total (Net)	\$39,981.01
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ESSEX

COUNTY COURT EXPENDITURES

Clerk of Courts Salaries & Expenses	\$121,256.75
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Probate Court & Registry Salaries & Expenses	34,366.29
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Law Libraries Salaries & Expenses	25,261.28
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Superior Court

Criminal

Court Officers & Stenographers	\$18,897.05
Probation Department	16,725.05
Jurors (Fees, etc.)	36,061.22
Witnesses (Fees, etc.) ..	9,195.30
District Attorney's Office	20,332.07
Misc. Expenses	4,839.75

106,050 44

Civil

(Includes Supreme Judicial & Land Cts.)

Court Officers & Stenographers	\$46,874.65
Jurors (Fees, etc.)	93,719.03
Auditors	35,011.78
Masters	5,467.42
Misc. Expenses	3,017.43

184,090 31

District Courts

Salaries & Expenses (Includes courthouse rentals)	527,132.72
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Courthouse Maintenance & Operation ..	139,483.45
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Courthouse Bonded Debt Int. pd. 1959 ..	5,550.00		
Total (Gross)		\$1,143,191.24	
Less—Receipts			—\$136,821.86
Total (Net)			\$1,006,369.38

FRANKLIN

COUNTY COURT EXPENDITURES

Clerk of Courts			
Salaries & Expenses	\$20,610.39		
Probate Court & Registry			
Salaries & Expenses	3,439.54		
Law Libraries			
Salaries & Expenses	8,086.89		
Superior Court			
<i>Criminal</i>			
Court Officers & Stenographers	\$3,063.41		
Probation Department	877.48		
Jurors (Fees, etc.)	8,989.02		
Witnesses (Fees, etc.)..	2,085.93		
District Attorney's Office	2,084.69		
Misc. Expenses	904.55		
		18,005.08	
<i>Civil</i>			
(Includes Supreme Ju- dicial & Land Cts.)			
Court Officers & Stenographers	\$4,131.67		
Jurors (Fees, etc.)	9,621.95		
Masters	261.00		
Misc. Expenses	1,040.00		
		15,054.62	
District Courts			
Salaries & Expenses (Includes courthouse rentals)	49,883.48		
Courthouse Mainte- nance & Operation ..	13,882.54		
Total (Gross)		\$128,962.54	
Less—Receipts			—\$16,656.93
Total (Net)			\$112,305.61

HAMPDEN

COUNTY COURT EXPENDITURES

Clerk of Courts	
Salaries & Expenses	\$65,437.78
Probate Court & Registry	
Salaries & Expenses	27,024.26

Law Libraries		
Salaries & Expenses	23,338.76	
Superior Court		
<i>Criminal</i>		
Court Officers &		
Stenographers	\$21,786.24	
Probation Department	6,951.23	
Jurors (Fees, etc.)	22,484.55	
Witnesses (Fees, etc.) ..	5,538.55	
District Attorney's		
Office	4,559.09	
Misc. Expenses	7,312.05	
		68,631.71
<i>Civil</i>		
(Includes Supreme Ju-		
dicial & Land Cts.)		
Court Officers &		
Stenographers	\$70,533.37	
Jurors (Fees, etc.)	103,811.05	
Auditors	7,481.25	
Masters	2,916.00	
Misc. Expenses	4,069.80	
		188,811.47
District Courts		
Salaries & Expenses		
(Includes courthouse		
rentals)	432,334.04	
Courthouse Mainte-		
nance & Operation ..	90,790.75	
Courthouse Bonded		
Debt Int. pd. 1959 ..	1,300.00	
Total (Gross)	\$897,668.77	
Less—Receipts		—\$141,902.05
Total (Net)		\$755,766.72

HAMPSHIRE

COUNTY COURT EXPENDITURES

Clerk of Courts	
Salaries & Expenses	\$22,238.45
Probate Court &	
Registry	
Salaries & Expenses	7,595.13
Law Libraries	
Salaries & Expenses	7,019.37
Superior Court	
<i>Criminal</i>	
Court Officers &	
Stenographers	\$1,616.00
Probation Department	1,067.60
Jurors (Fees, etc.)	4,472.02
Witnesses (Fees, etc.) ..	1,004.20
Service of Venires and	
Summons	470.45
District Attorney's	
Office	2,589.69
Misc. Expenses	1,684.60
	12,904.56

Civil

(Includes Supreme Judicial & Land Cts.)

Court Officers & Stenographers	\$7,799.90
Jurors (Fees, etc.)	17,884.28
Auditors	840.50
Masters	1,148.00
Misc. Expenses	903.07

28,575.75

District Courts

Salaries & Expenses

(Includes courthouse rentals)

84,843.24

Courthouse Maintenance & Operation ..

14,918.10

Total (Gross)

\$178,094.60

Less—Receipts

—\$24,458.96

Total (Net)

\$153,635.64

MIDDLESEX

COUNTY COURT EXPENDITURES

Clerk of Courts

Salaries & Expenses

\$232,782.71

Probate Court &

Registry

Salaries & Expenses

64,178.29

Law Libraries

Salaries & Expenses

42,384.52

Superior Court

Criminal

Court Officers &

Stenographers

\$90,745.67

Probation Department

37,963.05

Jurors (Fees, etc.)

88,982.26

Witnesses (Fees, etc.)..

34,010.20

District Attorney's

Office

84,958.91

Misc. Expenses

41,430.53

378,090.62

Civil

(Includes Supreme Judicial & Land Cts.)

Court Officers &

Stenographers

\$154,284.62

Jurors (Fees, etc.)

215,386.63

Auditors

86,579.58

Masters

12,257.10

Misc. Expenses

17,470.64

485,978.57

District Courts

Salaries & Expenses

(Includes courthouse rentals)

1,250,819.55

Courthouse Maintenance & Operation ..

297,758.90

Total (Gross)

\$2,751,993.16

Less—Receipts

—\$333,763.18

Total (Net)

\$2,418,229.98

NANTUCKET

COUNTY COURT EXPENDITURES

Clerk of Courts		
Salaries & Expenses	\$3,800.00	
Law Libraries		
Salaries & Expenses	256.25	
Superior Court*		
<i>Criminal & Civil</i>		
Grand Jury	\$454.50	
Probation Department	61.16	
Trial Jury	353.70	
Stenographer	183.34	
Sheriff & Deputies	255.70	
Witnesses	200.66	
Rent	40.00	
Misc. Expenses	67.00	
	<hr/>	
	1,616.06	
District Courts		
Salaries & Expenses		
(Includes courthouse		
rentals)	12,782.59	
Courthouse Maintenance & Operation ..	1,380.53	
	<hr/>	
Total (Gross)	\$19,835.43	
Less—Receipts		—\$1,751.38
		<hr/>
Total (Net)		\$18,084.05

*(No expenditures for Auditors, Masters, etc. Civil & Criminal expenditures not separated.)

NORFOLK

COUNTY COURT EXPENDITURES

Clerk of Courts	
Salaries & Expenses	\$63,521.63
Probate Court & Registry	
Salaries & Expenses	39,709.55
Law Libraries	
Salaries & Expenses	6,660.41
Superior Court	
<i>Criminal</i>	
Court Officers & Stenographers	\$12,432.00
Probation Department	13,877.46
Jurors (Fees, etc.)	45,194.70
Witnesses (Fees, etc.) ..	13,916.00
District Attorney's Office	14,574.70
Misc. Expenses	804.81
	<hr/>
	100,799.67

Civil

(Includes Supreme Judicial & Land Cts.)

Court Officers &

Stenographers	\$26,968.00
Jurors (Fees, etc.)	47,105.25
Auditors	53,369.00
Masters	2,955.00
Misc. Expenses	3,685.00

134,082.25

District Courts

Salaries & Expenses

(Includes courthouse rentals)

502,419.97

Courthouse Maintenance & Operation ..

146,640.47

Courthouse Bonded

Debt Int. pd. 1959 ..

5,700.00

Total (Gross)

\$999,533.95

Less—Receipts

—\$135,469.66

Total (Net)

\$864,064.29

PLYMOUTH

COUNTY COURT EXPENDITURES

Clerk of Courts

Salaries & Expenses

\$53,952.72

Probate Court &

Registry

Salaries & Expenses

46,982.22

Law Libraries

Salaries & Expenses

9,747.16

Superior Court

Criminal

Court Officers &

Stenographers

\$14,968.65

Probation Department

12,460.06

Jurors (Fees, etc.)

39,941.90

Witnesses (Fees, etc.) ..

9,944.70

District Attorney's

Office

8,660.31

Misc. Expenses

3,212.98

89,188.60

Civil

(Includes Supreme Judicial & Land Cts.)

Court Officers &

Stenographers

\$22,221.97

Jurors (Fees, etc.)

32,880.17

Auditors, Masters and

Referees

21,862.74

Misc. Expenses

1,145.86

78,110.74

District Courts

Salaries & Expenses

(Includes courthouse rentals)

236,353.95

Courthouse Maintenance & Operation ..	56,837.93	
Total (Gross)		\$571,173.32
Less—Receipts		—\$66,267.63
Total (Net)		\$504,905.69

WORCESTER

COUNTY COURT EXPENDITURES

Clerk of Courts	
Salaries & Expenses	\$150,106.97

Probate Court & Registry	
Salaries & Expenses	20,003.72

Law Libraries	
Salaries & Expenses	33,278.33

Superior Court	
<i>Criminal</i>	
Court Officers & Stenographers	\$25,596.00
Probation Department	16,994.00
Jurors (Fees, etc.)	53,627.76
Witnesses (Fees, etc.) ..	14,405.04
District Attorney's Office	19,829.20
Misc. Expenses	6,575.53
	<hr/>
	137,027.53

Civil

(Includes Supreme Judicial & Land Cts.)

Court Officers & Stenographers	\$90,878.95
Jurors (Fees, etc.)	149,709.00
Auditors	33,907.86
Masters	6,965.19
Misc. Expenses	3,795.30
	<hr/>
	285,256.30

District Courts	
Salaries & Expenses (Includes courthouse rentals)	537,329.10
Courthouse Maintenance & Operation ..	166,682.69
Courthouse Bonded Debt Int. pd. 1959 ..	31,384.80
	<hr/>

Total (Gross)	\$1,361,069.44
Less—Receipts	—\$157,087.30

Total (Net)	\$1,203,982.14
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SUMMARY OF COSTS OF ADMINISTERING AND OPERATING ALL COURTS IN THE COMMONWEALTH OF MASSACHUSETTS

	<i>Gross</i>	<i>Net</i>
Commonwealth of Massachusetts	\$ 3,674,559.21	\$ 2,938,682.80
Barnstable	215,911.19	184,514.62
Berkshire	296,917.48	216,855.16
Bristol	833,167.32	696,148.95
Dukes County	42,930.09	39,981.01
Essex	1,143,191.24	1,006,369.38
Franklin	128,962.54	112,305.61
Hampden	897,668.77	755,766.72
Hampshire	178,094.60	153,635.64
Middlesex	2,751,993.16	2,418,229.98
Nantucket	19,835.43	18,084.05
Norfolk	999,533.95	864,064.29
Plymouth	571,173.32	504,905.69
Suffolk	5,732,211.32	4,727,995.11
Worcester	1,361,069.44	1,203,982.14
	<hr/>	<hr/>
	\$18,847,219.06	\$15,841,521.15
Commitments*		320,467.69
		<hr/>
TOTAL		\$16,161,988.84

*(Total shown does not include Suffolk County. A portion of the expense attendant to commitments is a proper court expense, but to determine the actual judicial cost would require an examination of each and every voucher submitted for payment to the county treasurers in connection with commitments.)

APPENDIX II

AN ACT TO PROVIDE FOR OPTIONAL REQUESTS FOR REPORT TO
APPELLATE DIVISION IN TRIALS OF CASES TRIED UNDER
GENERAL LAWS, CHAPTER 231, SECTION 102C

Be it enacted, etc.

Section 102C of chapter 231 of the General Laws, as amended by acts of 1960, chapter 303, is hereby further amended by striking out the period after the words "superior court" in the twelfth line of the third paragraph and by adding the following: or may request a report to the appellate division; but if any other party claiming to be aggrieved shall request retransfer to the superior court, the case shall be retransferred notwithstanding the request for report by such other party, except that such retransfer shall not be made until the request for report shall have been disposed of—so that the third paragraph shall read as follows:

Such action shall, unless retransferred as herein provided, be pending in the district court and shall be tried by a full-time justice of the district court or by a justice authorized for such service in accordance with section seventy-seven A of chapter two hundred and eighteen. The parties shall have the benefits of and be subject to procedural rules of such district courts relative to interrogatories, specifications, amendments and all other procedural matters regulating cases pending in such district courts. The justice shall file a written decision or finding with the clerk who shall forthwith notify the parties or counsel of record. Any party to the action aggrieved by the finding or decision may as of right have the case retransferred for determination by the superior court or may request a report to the appellate division; but if any other party claiming to be aggrieved shall request retransfer to the superior court, the case shall be retransferred notwithstanding the request for report by such other party, except that such retransfer shall not be made until the request for report shall have been disposed of. The request for retransfer shall be filed with the clerk of said district court within ten days after notice of the decision or finding. If either party neglects to appear at the time appointed for such trial, or at any adjournment thereof, without just cause, or if at any such time either party refuses to produce in good faith the testimony relied on by him, the justice may close the trial and order that judgment be entered for the adverse party and file a finding or decision to that effect, and if both so fail to appear he may order that the action be dismissed. Judgment shall be entered accordingly at the first judgment day after the expiration of ten days from the filing of such finding or decision or order of dismissal, unless said justice for cause shown otherwise orders.

APPENDIX III

AN ACT TO PROVIDE FOR MOTION FOR SUMMARY JUDGMENT IN
CASES RETRANSFERRED UNDER GENERAL LAWS,
CHAPTER 231, SECTION 102C

Be it enacted, etc.

Chapter 231 of the General Laws is hereby amended by inserting therein after section 102C, as amended by acts of 1960, chapter 303, the following section:

Section 102D. (a) If an action transferred for trial under the provisions of section 102C shall be retransferred to the superior court, any party may at any time after the expiration of twenty days¹ from such retransfer move with supporting affidavits for summary judgment in his favor upon all or any part of the claim or defense.

(b) Such motion shall be served at least fourteen² days before the time fixed for hearing. The opposing party may prior to the day of hearing serve opposing affidavits. If the pleadings, stipulations, specifications, admissions of facts, answers to interrogatories,³ depositions and affidavits, in so far as the last three matters contain statements of fact admissible in evidence under rules of law, show that there is no genuine issue of fact and that any party is entitled to a judgment as a matter of law, such judgment shall forthwith be ordered. If such pleadings and other documents show that there is no genuine issue of fact on the issue of liability but that there is such issue on damages a default shall forthwith be entered against the party liable, and the case shall be held on the docket for assessment of damages.⁴ When appropriate, summary judgment may be entered against the moving party.⁵

(c) If on hearing of a motion under this section judgment is not rendered on the whole case or for all the recovery sought or defense claimed, and a trial is necessary, the justice by examining the pleadings and other documents mentioned in clause (a), the evidence before him, and interrogation of counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, including the

¹ Based on Maine rule 56.

² Maine rule provides for 10 days; but this seems a bit short to permit full preparation of counter affidavits and arguments.

³ The Federal rule does not mention answers to interrogatories but has been construed to include them. See *American Airlines v. Ulen*, 186 Fed. (2), 529. The Maine rule specifically mentions them.

⁴ Believed to be novel in Massachusetts, but taken from the Maine rule. There are many cases including torts, in which the plaintiff is as matter of law entitled to damages.

⁵ Also from the Maine rule. The moving party should be ready to finish what he starts, and why not?

extent to which the amount of damages is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.⁶

(d) ⁷Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions or by further affidavits. When a motion for summary judgment is made and supported as provided in this section, an adverse party may not rest on the mere allegations or denials of his pleading, but his response by affidavits or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment or default, if appropriate, shall be entered against him.

(e) ⁸Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(f) ⁹Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

⁶ This clause is taken from the Maine rule, but limited to actions at law. Their rule includes cases where what would be equitable relief here is sought.

⁷ Taken almost verbatim from the Maine rule.

⁸ From the Maine rule; would be applicable usually only where proof of the claim or defense rests on admissions which the opponent is expected to make.

⁹ From the Maine rule; this clause gives the remedy a real bite, lacking in General Laws, chapter 231, section 59.

APPENDIX IV

LIST OF STATUTES PROVIDING FOR PREFERENCES
IN ORDER OF TRIALS

1. An action removed from a district to the superior court, involving only claim for personal labor. General Laws, chapter 231, section 59A.

2. Cases removed from district courts with claim for jury. Advancement is permissive only. General Laws, chapter 231, section 104. (This is applicable only to cases entered prior to May, 1956.)

3. Any action removed from a district court in which the ad damnum is not over \$2,000. General Laws, chapter 231, section 59A.

4. An action for debt or liquidated demand, in which the plaintiff files an affidavit of no defence and motion for immediate judgment, and in which the defendant files a demand for trial. General Laws, chapter 231, section 59B.

5. Malpractice suits, already referred to, General Laws, chapter 231, section 59C.

6. Law or equity suits in any court to determine results of elections, primaries, caucuses or to enforce, interpret or apply any provisions of the election laws, General Laws, chapters 50 to 54A inclusive, General Laws, chapter 231, section 59D.

7. Petitions to void an election for violation of the corrupt practice laws. General Laws, chapter 55, section 28(c). This also purports to require advancement "over any case of a different nature."

8. A law or equity action in which either party offers to waive certain procedural rights and his opponent accepts the offer. General Laws, chapter 231, section 60A.

9. Petitions for damages alleged under eminent domain takings. General Laws, chapter 79, section 34.

10. Similar provision in cases of appeals from betterment assessments. General Laws, chapter 80, section 9.

11. Petitions for redetermination under alternative procedure for eminent domain takings and betterment assessments. General Laws, chapter 80A, section 9. This one is permissive only.

12. Petition to superior court by commissioner of corporations and taxation to remove a tax collector. General Laws, chapter 41, section 39B.

13. Bill in equity to enjoin maintenance of house of ill fame. General Laws, chapter 139, section 7. It is to have precedence over all cases except election, criminal cases and other cases under the same statute.

14. Suits to recover employers' contributions under the employment security law. General Laws, chapter 151A, section 15(b).

15. Petition for review of a decision of the director of employment security. General Laws, chapter 151A, section 42.

16. Petition to superior court for review of an order of the fair employment practice commission. General Laws, chapter 151B, section 6. This petition is to take precedence over "all other matters" before the court.

17. Applications for preliminary injunction in a labor dispute. General Laws, chapter 214, section 9. This is to take precedence over "all other matters" except older matters of the same character.

18. Appeal of such preliminary injunction case to supreme judicial court to be heard "summarily" by single justice. Same section.

19. Appeals to superior court in workmen's compensation cases. General Laws, chapter 152, section 11. This preference is only over cases to be heard without jury.

20. Petitions for review of orders of the labor relations commission. General Laws, chapter 150A, section 6(i). This section is only permissive.

21. Review of ruling of the public utilities commission. General Laws, chapter 25, section 5. This review can be heard only by the supreme judicial court, but it is also more broadly provided in the section that any case in any court directly affecting an order of the commission or to which it is a party shall have precedence over all civil cases except election cases.

22. Appeals to the superior court in zoning cases. General Laws, chapter 40A, section 21. They are to have precedence over "all other civil actions and proceedings."

23. Appeals to the superior courts from planning board decisions. General Laws, chapter 41, section 81BB. This section is permissive only.

24. Petitions for writ of habeas corpus. General Laws, chapter 212, section 24. This is confined to superior court sittings at which criminal business can be transacted. The petition is to be preferred over all cases except those involving care and protection of chil-

dren, but the district attorney may move and the court may order any specific case to be heard before all others.*

25. Petition for review of insurance rates by supreme judicial court. General Laws, chapter 175, section 113B.

26. Appeals from cancellations of motor vehicle liability policies. General Laws, chapter 175, section 113D. The superior court is to hear these "summarily."

27. Jury issues referred from the land court to the superior court. General Laws, chapter 185, section 15.

28. Jury issues referred from the probate courts to the superior court. General Laws, chapter 215, section 16.

29. Petition to enjoin discontinuance of the use of street railway tracks. General Laws, chapter 161, section 86.

30. When a court has disqualified an attorney for unlawful solicitation of a case on trial it may order another and speedy trial. General Laws, chapter 221, section 44.

31. In General Laws, chapter 231, section 59A, there is a general authorization to the courts to advance cases for trial.

*This actually is in this extraordinary statute.

APPENDIX V

STATISTICS OF THE WORK ACCOMPLISHED
BY THE VARIOUS COURTS

In the pages and inserts which follow we report the work of the various courts statistically, for the most recent twelve month reporting period.

To show the total extent of the work involved in administering justice in the commonwealth we furnish the following summary; we also furnish a comparison with the previous year.

CIVIL ENTRIES

	<i>1960 4th Report</i>	<i>1959 3d Report</i>
Supreme judicial court, law	885	873
Supreme judicial court, equity	52	53
	<hr/> 937	<hr/> 926
Superior court, law	34,702	32,245
Superior court, equity	4,531	4,638
	<hr/> 39,233	<hr/> 36,883
Land court	4,823	4,951
Probate courts, probate	32,523	31,572
Probate courts, divorce	7,187	8,524
Probate courts, commitments	1,541	1,707
	<hr/> 41,251	<hr/> 41,803
Municipal court of the city of Boston, net after removals	19,669	19,637
Municipal court of the city of Boston, sup- plementary process	1,418	1,282
Municipal court of the city of Boston, small claims	1,468	1,213
Municipal court of the city of Boston, recip- rocal support	105	96
	<hr/> 22,660	<hr/> 22,228
District courts, net after removals	69,619	66,968
District courts, supplementary process	27,992	25,837
District courts, small claims	72,091	68,192
District courts, commitments	5,506	5,540
District courts, reciprocal support	1,706	1,070
	<hr/> 176,914	<hr/> 167,607
Total civil entries	285,818	274,398

CRIMINAL ENTRIES

	<i>1960</i> <i>4th Report</i>	<i>1959</i> <i>3d Report</i>
Superior court, indictments	8,100	8,004
Superior court, actions on bail bonds	36	38
Superior court, complaints after waiver of indictments	45	66
	<hr/> 8,181	<hr/> 8,108
Municipal court of the city of Boston, gen- eral	48,824	46,208
Municipal court of the city of Boston, in- quests	1	1
	<hr/> 48,825	<hr/> 46,209
District courts, general	263,683	242,208
District courts, inquests	24	28
	<hr/> 263,707	<hr/> 242,236
Boston juvenile court	1,021	862
	<hr/> 321,734	<hr/> 297,415
Total criminal entries		

This year the total of all entries, both civil and criminal, is 607,552, and last year it was 571,813; this is an increase of 6.2%.

The parking tickets show a sharp increase. The Boston municipal court this year had 321,611 and the district courts 910,414, a total of 1,231,025, as against 1,096,415 last year.

SUPREME JUDICIAL COURT

During the twelve month period from September 1, 1959, to August 31, 1960, the full bench of the supreme judicial court decided 303 cases; of these 31 were by rescript opinions and 272 by formal opinions. In addition there were two advisory opinions as required under the constitution; the total is thus 305. While the present court season has only started, I forecast no marked change in the number of cases to be decided during the period from September 1, 1960, to August 31, 1961.

Of the 303 cases other than advisory opinions, 18 or 6% came up on report without decision. In the remaining 285 cases the rulings of the trial court were affirmed in 192, reversed in 81, and affirmed with modification in 12. The reversals made up 28.4% of the decisions in cases not sent up by report; this is a much smaller

percentage than last year, when the figure for reversals was 36%.

The origins of the cases by counties are as follows:

Barnstable	2
Berkshire	4
Bristol	22
Dukes County	—
Essex	16
Franklin	—
Hampden	14
Hampshire	2
Middlesex	52
Nantucket	—
Norfolk	20
Plymouth	8
Suffolk	115
Worcester	48
TOTAL	303

This year there were only eleven criminal appeals.

The cases came from the various courts as follows:

Supreme judicial court, single justice session, law	11	
Supreme judicial court, single justice session, equity	8	
		19
Superior court, law	152	
Superior court, equity	74	
Superior court, workmen's compensation cases	11	
		237
Land court		4
Probate courts		27
Municipal and district courts		16
TOTAL		303

A phenomenon which goes back a number of years is the extraordinarily small use of appellate proceedings from district and municipal courts, even making full allowance for non-suits and defaults in these courts. Reference is, of course, made only to cases entered on their regular dockets, and not to small claims.

I have already noted, paragraph 84, that before the end of July all cases argued or submitted through and including the June consultation had been decided, so that the court's work was completely current.

SUPREME JUDICIAL COURT SINGLE JUSTICE SESSION FOR THE COUNTY OF SUFFOLK

I report below the statistics for the single justice session in Suffolk County. These show no great change from the year before except that this year was a light one for corporation dissolutions.

REPORT OF CLERK FOR SUFFOLK COUNTY

<i>Transferred to Superior Court</i>	<i>Prerogative Writs</i>	<i>Petitions for Admission to the Bar</i>
15	48	805

Law Docket

Appeals from decisions of the Appellate Tax Board	10
Petitions for admission to the bar	805
Petition for writ of certiorari	1
Petitions for writs of error	21
Petitions for writs of mandamus	11
Petitions for discharge under General Laws, chapter 123, sections 91 to 94 (restoration to sanity)	11
Petitions for writs of prohibition	3
Petitions to establish truth of exceptions	8
Petitions for writs of habeas corpus	12
Petition for leave to enter appeal late	1
Petitions for stay of execution of sentence	2
Total entries on law docket	885

Equity Docket

Appeals from decision and order of the Commissioner of Insurance	2
Bill of complaint under General Laws, chapter 271, section 6-A, in- junction against endless chain transactions	1
Bill of complaint under General Laws, chapter 197, section 10, for relief after claim barred against decedent's estate	1
Appeals from orders of the department of public utilities	9
Petition for appointment of receiver	1
Petition for declaratory judgment	1
Petitions for dissolution of corporations under General Laws, chap- ter 155, section 50-A (about 700 corporations)	4
Petitions for dissolution brought by individuals	4
Petitions in equity, general jurisdiction	5
Petition to establish truth of exceptions	1
Petition for late appeal	1
Petitions for leave to transfer funds or property	2
Petitions to sell real estate	2
Petition for stay of proceedings	1
Petitions to suspend or modify decrees of superior court pending appeal	5
Petition to suspend decree of probate court	1
Petition under special act, Acts of 1958, chapter 21, transfer of prop- erty of Mt. Prescott Cemetery, Salisbury	1
Petition under General Laws, chapter 29, section 63, re unlawful expenditures of departments and officers of the state	2
Petition under General Laws, chapter 180, re charitable, educational and similar corporations	1
Petitions under General Laws, chapter 204, sale of church property	2
Petitions under General Laws, chapter 211, section 11, late entry of exceptions or report	4
Report of questions of law, General Laws, chapter 214, section 9, labor case	1

Total entries on equity docket 52

Total entries on both dockets 937

SUPERIOR COURT

The two sheets inserted at this point give the details of the work of the superior court, civil and criminal. As has been already mentioned, there was an increase in the entries on both sides over the year before.

The figures indicate that the judges sat a total of 1,541 court days for criminal trials and dispositions, and 4,981 days on the civil side, or 6,522 days in all. The corresponding figures last year were 1,221 days on the criminal side and 5,148 for civil sessions, a total of 6,369. Thus, while the time devoted to criminal cases increased substantially, that allowed for civil cases decreased. This illustrates graphically the dislocation of civil sessions caused by the loss of the district court judges, discussed in the body of this report, paragraphs 6 to 8, and the resulting efforts to keep the criminal lists from falling too far behind. Last year district court judges sat a total of 603 days in criminal sessions and 1,087 days for motor tort cases. So, in the 1958-1959 reporting period there were 1,824 days devoted to criminal business, against 1,541 days this year, and 6,235 days for civil cases, against 4,981 this year. The percentage drop on the criminal side is 15.5% and on the civil, 20%. The total on both sides for all judges, superior and district, is 6,522 this year and 8,059 last year, a loss of 1,537 court days, or 19%.

So, in the face of substantially increased entries, judicial manpower available to the court dropped by practically one-fifth. Further comment is needless.

The appellate division for the review of sentences under General Laws, chapter 278, section 28A, sat 12 days this year. I report the details of their cases, viz.:

Appeals pending June 30, 1959	37	
Appeals filed	368	
		<hr/>
Total		405
Sentences modified	29	
Appeals dismissed	237	
Appeals withdrawn	104	
Pending June 30, 1960	35	
		<hr/>
Total		405

No sentence was increased this year.

Those interested will please note the sharp increase in appeals filed, from 165 last year to 368 this year. Nevertheless the division kept current with its work, ending the year with fewer appeals pending than at the beginning. These were appeals filed only shortly before the end of the period.

CIVIL BUSINESS STATISTICS—SUPERIOR COURT FOR THE YEAR ENDING JUNE 30, 1960, AS REPORTED BY CLERKS OF SAID COURT

NOTE: Divorce and Nullity cases in Superior Court totalled 78. Nine of the fourteen counties had none. Hampshire County handled 69 and disposed of 34. The nine remaining cases were docketed in Essex, Middlesex, Norfolk and Suffolk Counties.

CRIMINAL BUSINESS STATISTICS OF THE SUPERIOR

	Barnstable	Berkshire	Bristol	Dukes
Number remaining at first of the year	54	156	271	4
Number of indictments returned	141	80	661	21
Number of appeal cases entered	147	172	644	15
Appeals withdrawn before sitting following entry	16	21	57	9
Appeals withdrawn after next sitting under G.L., C. 278, § 25	13	10	65	0
Appeals withdrawn during sitting*	28	14	68	0
Number of actions on bail bonds for recognizances entered	0	0	0	0
Number disposed of in previous years brought forward for redispotion	3	0	5	0
Indictments waived	10	90	19	0
Number of complaints filed after waiver of indictment	0	0	0	0
Number disposed of during year	220	192	851	22
Number remaining at end of the year	78	261	559	9
Number of trials during year by superior court justices	48	20	83	4
Number awaiting trial at end of the year	52	198	391	9
Number of days during which a superior court justice sat for trials, dispositions or redispotions	27	17	97	5

*In Suffolk County, appeals in this category are included in the preceding classification.

COURT FOR THE YEAR ENDING JUNE 30, 1960

Essex	Franklin	Hampden	Hampshire	Middlesex	Nantucket	Norfolk	Plymouth	Suffolk	Worcester	Totals
122	27	341	86	561	0	302	129	1,389	406	3,848
428	65	506	106	1,452	28	661	432	2,844	675	8,100
513	55	215	55	1,286	7	540	480	1,995	277	6,401
47	12	20	2	0	2	55	40	123	25	429
58	0	19	16	216	0	23	48	97	33	598
59	5	2	2	61	0	78	64	0	47	428
0	0	0	0	9	0	0	0	27	0	36
21	0	0	3	85	0	18	165	622	29	951
101	6	42	16	67	0	37	47	94	460	989
0	0	0	0	10	0	0	0	0	35	45
772	81	611	127	2,430	33	917	920	5,593	1,458	14,227
249	55	452	119	770	0	485	181	1,158	224	4,600
90	16	37	13	307	33	195	168	787	156	1,957
242	37	420	20	698	0	480	4	1,115	221	3,887
90	13	58	11	307	5	94	89	588	140	1,541

PROBATE COURTS

On the next two pages we give the statistics of the more important categories of probate jurisdiction by counties.

Libels for divorce show a large decline, from 8,524 last year to 7,187 for this year, a drop of 1,337. I have no doubt that the new "cooling-off" statute, effective since January 1, 1959, now General Laws, chapter 208, section 6B, has had considerable influence in causing this drop. Nor is the decline accompanied by any corresponding increase in separation cases; to be sure, these increased, but only by 249. I would not care to assign any definite ratio to the effect of the "cooling-off" law. Other factors may also contribute; for example, it is generally believed that when economic conditions are mediocre divorces drop, and there was a noticeable economic recession in part of 1959.

The strictly probate work continues to remain about stationary or to drop off slightly. It is to be noted that this year ~~the~~ totals of probates of wills and letters of administration and adoptions have decreased a little from those of the year before, and the same is true of appointments of trustees; on the other hand, petitions for separate support, decrees of desertion and living apart for just cause and for custody of minors all show increases. The emphasis in these courts is still slowly shifting to the domestic relations jurisdiction.

EXTRACTS FROM THE REPORTS OF THE REGISTERS OF

	Barnstable	Berkshire	Bristol	Dukes	Essex
Original entries	620	976	2,231	75	3,603
Administrations allowed	158	308	638	21	1,153
Wills allowed	264	264	651	31	1,065
Guardians appointed	38	108	129	5	238
Conservators appointed	21	45	90	2	133
Trustees appointed	31	52	66	5	154
Partitions	9	10	15	0	14
Separate support	5	25	78	3	82
Desertion and living apart	2	15	6	0	16
Custody	1	6	16	2	21
Divorce:					
Original entries	130	200	588	15	711
Decrees nisi	108	165	468	16	584
Other decrees and orders	12	70	336	20	311
Commitments of mentally ill and feeble minded	0	2	4	0	1
Adoptions	46	74	98	0	246

PROBATE FOR THE YEAR ENDING DECEMBER 31, 1959

Franklin	Hampden	Hampshire	Middlesex	Nantucket	Norfolk	Plymouth	Suffolk	Worcester	Totals
517	2,189	600	7,082	56	3,274	1,678	5,495	4,127	32,523
122	703	198	2,211	19	883	637	1,998	1,189	10,238
129	539	169	1,986	33	943	449	1,180	1,088	8,791
27	168	31	467	2	218	129	312	283	2,155
42	92	19	253	2	143	71	250	164	1,327
22	73	14	322	0	209	38	151	231	1,368
2	5	3	14	2	9	5	27	17	132
0	55	8	209	1	96	95	1,578	149	2,384
1	1	0	5	0	5	11	14	14	90
1	1	5	14	2	11	11	91	1	183
59	823	60	1,482	3	450	431	1,445	790	7,187
55	580	46	1,029	5	345	273	1,099	638	5,411
46	806	64	1,489	5	868	540	2,384	480	7,431
1	13	1	5	0	5	2	1,498	9	1,541
22	202	38	578	0	234	105	303	236	2,182

LAND COURT

I report below the details of the work of the land court during the last reporting period, July 1, 1959, to June 30, 1960.

The total entries are off slightly from the previous year, as are dispositions. The largest drop is in the equity category. As already noted, there was a noticeable increase in the number of original petitions for registration.

CASES ENTERED

Land registration	808	
Land confirmation	6	
Land registration, subsequent	961	
Tax lien	769	
Miscellaneous	298	
Equity	1,981	
	<hr/>	
Total cases entered		4,823
Decree plans made	772	
Subdivision plans made	902	
	<hr/>	
Total plans made		1,674
Assurance Fund, June 30, 1960		\$408,145.66
Assessed value of land on petitions in registration and confirmation cases entered		\$6,285,655.29

CASES DISPOSED OF BY FINAL ORDER,
DECREE OR JUDGMENT

Land registration	789	
Land confirmation	11	
Land registration, subsequent	961	
Tax lien	915	
Equity and miscellaneous	1,988	
	<hr/>	
Total cases disposed of		4,664

MUNICIPAL COURT OF THE CITY OF BOSTON

Below are given the statistics of the work of the municipal court of the city of Boston. The activity in handling the cases from the superior court is worthy of particular notice. General civil and criminal work runs about the same as last year.

Attention is called to the increase in reciprocal support and the amounts collected, which totalled over \$59,000 this year—an increase of almost 10%.

CRIMINAL

Automobile violations	2,282	
Parking violations	26,468	
Domestic relations	318	
Drunkenness in court	7,719	
Drunkenness released by probation officer	6,778	
Other criminal cases	5,086	
Inquests entered	1	
Search warrants issued	172	
Total		48,824

DISPOSITIONS:

Pleas of guilty	23,569
Pleas of not guilty	2,644
Placed on file, dismissed, etc.	8,449
Not arrested, pending for trial or sentence	6,551
Defendants acquitted	718
Bound over to Grand Jury	940
Defendants placed on probation (not including surrenders)	3,455
Defendants fined	17,844
Imprisonments	3,254
Fines appealed	126
Imprisonments appealed	533

NON-CRIMINAL PARKING LAW:

Parking tags returned by violators	321,611
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FINANCES:

Received from parking tag office	\$288,528.05	
Received from court fines, fees, forfeitures, etc.	82,984.50	
Total received and turned over to Commonwealth and City of Boston	\$371,512.55	
Received as bail by court	115,236.00	
Total receipts of the court		\$486,748.55

CIVIL

	<i>Contract</i>	<i>Tort</i>	<i>Contract or Tort</i>	<i>All Others</i>	<i>Total</i>
Actions entered	12,897	6,644	370	698	20,609
Actions removed to superior court	216	683	41	0	940
Net entries after removals	12,681	5,961	329	698	19,669
Actions defaulted	7,721	1,023	43	262	9,049
Trials*	883	2,155	26	221	3,285
Plaintiff's findings**	702	1,176	0	152	2,030
Defendant's findings**	119	430	11	74	634
<i>Appellate Division</i>					
Reports allowed	11	11	2	1	25
Reports disallowed	2	2	0	1	5
Cases heard	9	7	1	0	17
Cases affirmed**	11	3	0	0	14
Cases reversed**	1	1	0	0	2
Cases consolidated under G.L., C. 223, § 2	13	87	0	0	100
Appeals to supreme judicial court perfected	0	1	0	0	1
Appeals to supreme judicial court affirmed	5	0	0	0	5
Appeals to supreme judicial court reversed	0	1	0	0	1
Plaintiff's judgments					
total, viz.:					
By default	8,523	358	0	240	9,121
After trial	702	1,176	0	152	2,030
By agreement	772	3,207	0	6	3,985
Defendant's judgments					
total, viz.:					
By non-suit	9	164	1	2	176
After trial	119	430	11	74	634
By agreement	13	17	1	0	31
Neither party agreement	196	177	17	3	393
Amount of plaintiffs' judgments	\$2,861,049.83	\$1,134,728.35	0	\$705.19	\$3,996,483.37
Average of plaintiffs' judgments	\$286.19	\$239.34	0	\$1.77	\$264.04

*This includes 650 remanded cases tried, other than assessment of damages on defaults.

**Some cases are heard before the reporting period and decided during it and some are heard during the reporting period and decided during it.

DISTRICT COURTS

The sheet inserted herewith shows in detail the statistics of the work of the seventy-two district courts. There has been an increase generally in their work. We call attention to the figures dealing with the "remanded" cases. They indicate one of the reasons why this office has wanted to see more full-time judges.

This year the administrative committee has inserted a new column, giving the number of gaming cases.

During the year there were also twenty-four inquests held in these courts.

At the risk of repetition, I invite notice of the parking tickets; in certain courts these are a serious problem and burden. The number of commitments does not vary greatly from year to year. In a small group of courts in whose districts insane asylums are located this jurisdiction requires much time and attention of the judges.

BOSTON JUVENILE COURT

Below we give the figures for the activity of the Boston juvenile court. We note with regret that there was an increase in nearly all the classes of its jurisdiction. As of the end of the period there were cases involving 473 individuals pending in the court, as against 426 individuals at the end of the prior year.

BOSTON JUVENILE COURT

July 1, 1959 — June 30, 1960

COMPLAINTS:

	<i>Boys</i>	<i>Girls</i>	<i>Totals</i>
Juvenile Criminal	1	0	1
Delinquent	709	242	951
Wayward	0	0	0
Totals	710	242	952
Adults	Men 31	Women 19	Totals 50
	<i>No. of</i> <i>Complaints</i>	<i>No. of</i> <i>Children</i> <i>Represented</i>	
Children in Need of Care and Protection	19	47	

TOTAL NUMBER OF ALL COMPLAINTS:

Juvenile	952
Adult	50
Children in Need of Care and Protection	19
	1,021

Active as of June 30 1960:

	<i>Individuals</i>	<i>Complaints</i>
JUVENILES:		
Boys	221	257
Girls	105	107
Totals	326	364
ADULTS:		
Men	34	38
Women	35	35
Totals	69	73
CHILDREN IN NEED OF CARE AND PROTECTION	78	27
TOTALS (Active as of June 30, 1960)	473	464

NUMBER OF CASES:

Juveniles	364
Adults	73
Complaints of Children in Need of Care and Protection	27
Total	464

Compiled by the Administrative Committee of District Courts

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	
DISTRICT COURTS arranged in accordance with 1960 CENSUS	Total Civil Writs Entered	Trials less Summary Process (Ejectments)	Summary Process Entered (Included in column 1)	Summary Process Tried	All Removals	Reported to Appellate Division	Reported to Supreme Judicial Court	Supplementary Process	Small Claims	Criminal Cases Begun	Criminal Appeals	Drunkenness	Automobile Cases	Operating Under Influence of Intoxicating Liquor	Gaming and/or Lottery Cases	Juvenile Cases	Neglected Children	Parking Tickets Returned	Insane Commitments	Uniform Reciprocal Enforcement of Support Act, G.L., Chap. 273A.			Remand or Transfer Cases Acts 1958, Chapter 369					
																				No. Cases Initiated	No. Cases Received from Other States	Amount of Money Collected	No. Cases Received	Tried	Retransferred to Superior Court after Trial	All Dispositions: Agreements, Trials, Defaults, Non-Suits, Dismissals, Settled, etc.	Pending	
Central Worcester	4,810	313	311	69	109	10	0	2,117	4,302	17,468	103	3,646	9,329	194	8	481	39	43,096	842	62	24	64,333.08	408	101	63	412	162	*+1.
Springfield	4,318	415	292	56	476	7	1	1,831	4,801	18,552	68	3,862	5,851	159	93	508	23	42,342	311	44	62	73,754.38	108	33	12	93	41	+2.
East Norfolk, Quincy	4,106	452	230	77	211	1	0	1,145	2,992	6,455	122	1,694	3,093	243	8	265	14	2,198	35	43	6	53,336.72	273	59	30	259	56	+3.
1st East. Middlesex, Malden	4,386	406	255	178	322	7	0	1,139	2,564	7,882	121	1,136	5,755	146	14	266	21	52,981	39	31	14	58,351.27	174	95	60	259	22	+4.
3rd East. Middlesex, Cambridge	4,115	473	353	28	225	3	2	1,951	17,995	219	2,370	14,071	187	54	319	43	113,062	99	35	17	34,057.60	121	52	33	118	45	+5.	
Lowell	2,883	279	300	34	108	2	0	836	3,437	4,710	50	1,501	1,863	177	38	180	15	17,760	18	58	27	66,641.44	31	9	3	32	4	+6.
Dorchester	1,791	258	744	244	208	1	0	1,314	2,129	6,413	145	1,866	3,238	121	27	402	12	30,235	2	65	25	51,704.50	219	79	29	248	58	+7.
Southern Essex, Lynn	2,710	200	406	68	160	1	0	1,307	2,287	5,515	44	2,077	1,914	166	47	221	13	35,228	17	36	18	44,937.97	184	34	18	182	74	+8.
3rd Bristol, New Bedford	2,245	246	228	32	243	4	1	360	3,965	4,368	118	1,530	1,027	249	74	304	8	3,129	102	24	3	33,111.77	39	15	6	29	21	+9.
2nd Bristol, Fall River	1,190	39	125	25	50	1	0	224	1,303	3,682	284	1,850	1,630	197	49	164	0	19,311	171	24	1	16,252.06	32	8	4	10	44	+10.
Roxbury	2,573	73	2,022	358	64	2	0	1,643	2,079	26,855	372	5,558	12,635	149	406	743	73	120,043	3	167	46	128,729.87	106	19	14	106	30	+11.
Lawrence	1,479	200	137	28	93	0	0	194	1,575	3,576	33	1,332	1,726	107	34	167	18	31,405	2	25	13	14,615.50	110	20	10	92	23	+12.
West Roxbury	658	45	362	107	38	2	0	817	1,055	5,021	75	875	3,230	57	18	324	6	12,988	6	22	6	24,881.41	65	24	10	74	18	+13.
4th East. Middlesex, Woburn	1,706	159	73	49	66	0	0	645	940	1,750	38	655	748	102	2	140	0	670	14	8	5	11,201.22	46	7	1	26	83	+14.
Northern Norfolk, Dedham	1,399	127	38	17	66	0	0	592	807	1,640	55	435	998	108	5	106	2	5,581	295	5	7	12,946.67	123	29	10	112	28	+15.
First Essex, Salem	1,802	117	85	33	192	0	0	345	1,029	3,052	45	934	1,279	118	15	144	6	15,450	270	23	8	19,451.34	107	8	5	79	58	+16.
2nd East. Middlesex, Waltham	1,753	82	136	45	97	2	0	479	1,203	9,404	207	1,063	7,965	149	28	206	13	38,106	551	9	15	13,495.34	46	14	5	50	8	+17.
Hampshire, Northampton	492	19	37	6	43	0	1	127	1,850	3,247	52	544	1,876	113	17	149	14	3,500	373	8	6	702.00	8	0	0	0	20	+18.
Brockton	1,543	154	124	41	109	2	0	499	1,155	4,186	76	1,166	1,815	159	93	195	5	12,995	55	31	9	28,394.54	72	22	16	63	23	+19.
Somerville	2,263	204	274	156	106	0	1	721	1,137	4,567	152	1,428	2,418	82	102	71	11	29,821	12	13	7	18,365.38	96	29	11	133	28	+20.
Newton	1,562	175	44	13	102	1	0	465	1,110	5,360	132	425	4,391	41	15	68	0	21,775	7	7	5	14,804.10	65	23	8	61	41	+21.
1st So. Middlesex, Framingham	1,303	145	100	51	143	0	0	347	875	2,626	74	481	1,499	86	4	149	9	251	44	23	9	14,717.85	43	33	7	42	8	+22.
2nd Plymouth, Hingham	1,551	86	78	17	61	3	1	981	1,444	1,950	184	365	567	147	1	206	5	245	18	21	7	25,622.24	50	15	9	49	13	+23.
Central Berkshire, Pittsfield	898	51	64	10	0	0	0	647	1,595	4,283	64	581	3,197	112	36	58	0	20,902	0	4	6	14,731.43	20	3	2	6	15	+24.
Central Middlesex, Concord	598	74	10	6	33	2	0	155	333	3,180	40	268	2,046	75	0	155	0	5,134	37	3	1	7,904.00	18	4	0	12	11	+25.
1st Bristol, Taunton	818	81	60	5	46	1	1	143	776	3,165	125	189	1,605	102	3	127	0	840	257	19	9	15,105.00	10	6	2	15	2	+26.
Chelsea	1,372	237	217	59	132	1	0	743	1,152	4,298	89	1,674	901	111	11	229	14	2,037	41	23	7	19,379.00	173	49	8	170	104	+27.
West. Norfolk, Wrentham	798	118	35	15	40	0	0	246	780	1,855	25	275	1,047	90	3	119	0	185	338	11	7	6,162.50	33	28	2	31	5	+28.
East Boston	807	55	309	126	79	1	0	505	775	4,439	60	607	2,803	35	47	140	17	25,016	12	21	3	16,888.00	91	37	15	98	15	+29.
Brighton	654	38	312	97	67	0	0	589	897	5,969	93	828	4,106	39	21	56	3	30,379	2	20	19	15,537.18	43	30	14	37	10	+30.
Chicopee	246	32	41	19	18	1	1	72	579	2,280	18	461	1,422	107	0	90	12	5,299	0	16	14	8,119.00	7	2	0	5	2	+31.
No. Central Essex, Haverhill	832	152	51	22	108	0	0	334	656																			

